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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii) PART II—Section 3—Sub-Section (ii)

(रक्षा मंत्रालय को छोड़ कर) भारत सरकार के मंत्रालयों द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications issued by the Ministries of the Government of India (other than
the Ministry of Defence)

वित्त मंत्रालय

(राजस्व विभाग)

आदेश

नई दिल्ली, 26 जून, 1989

का.घा. 1641:—भारत सरकार के संयुक्त सचिव ने, जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशेष रूप से सशक्त किया गया है, उक्त उपधारा के अधीन आदेश का.सं. 673/469/88-मी.गु.-8 तारीख 10-10-88 यह निदेश देते हुए जारी किया था कि श्री विजय कुमार अम्बालाल गुर्जर, पुत्र अम्बालाल, यादव निवास, कमरा नं. 11, प्रथम तल, हनुमान रोड, बम्बई-57 को निरुद्ध करके केन्द्रीय कारागार, बम्बई में अभिरक्षा में रखा जाए ताकि उसे ऐसा कोई भी कार्य करने से रोका जा सके जो विदेशी मुद्रा की अधिवृद्धि के लिए हानिकारक हो।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके।

3. अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उप-धारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि पूर्वोक्त व्यक्ति इस आदेश के राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस आयुक्त, बम्बई के समक्ष हजरि हो।

[का.सं. 673/469/88-मी.गु.-8]

MINISTRY OF FINANCE

(Department of Revenue)

ORDERS

New Delhi, the 26th June, 1989

S.O. 1641.—Whereas the Joint Secretary to the Government of India specifically empowered under sub-section (1) of section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/469/88-Cus. VII dated 10-10-88 under the said sub-section directing that Shri Vijay Kumar Ambalal Gurjar, S/o Ambalal, Yadav Niwas, Room No. 11, 1st Floor, Hanuman Road, Bombay-57, be detained and kept in custody in the Central Prison Bombay, with a view to preventing him from acting in any manner prejudicial to the augmentation of foreign exchange,

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of power conferred by clause (b) of sub-section (1) of section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police Bombay, within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/469/88-Cus.VIII]

का.आ. 1642:—भारत सरकार के संयुक्त सचिव ने, जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशेष रूप से सशक्त किया गया है, उक्त उपधारा के अधीन आदेश फा.सं. 673/497/88-सी.गु.-viii, तारीख 12-10-88 यह निदेश देते हुए जारी किया था कि श्री रहत उमर सहगल 1, फ्लैट नं. 4, शीर्ष तल, उमर बिल्डिंग, मोहम्मद अली रोड, बम्बई-400003, 2. हाउस नं. 10, फिरोज मंशन जुबली सिनेमा के निकट, कराची, को निरुद्ध करके केन्द्रीय कारागार बम्बई में अभिरक्षा में रखा जाए ताकि उसे माल की तस्करी करने से रोका जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके;

3. अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि पूर्वोक्त व्यक्ति इस आदेश के राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस आयुक्त; बम्बई, के समक्ष हाजिर हों।

[फा.सं. 673/497/88-सी.गु.-8]

S.O. 1642.—Whereas the Joint Secretary to the Government of India specially empowered under sub-section (1) of section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/497/88-Cus. VIII dated 12-10-88 under the said sub-section directing that Shri Rahat Umer Sehgal, 1. Flat No. 4, Top Floor, Umer Bldg., Mohd. Ali Road, Bombay-400003 2. House No. 10, Feroze Mansion, Near Jubilee Cinema, Karachi be detained and kept in custody in the Central Prison, Bombay with a view to preventing him from smuggling goods.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of power conferred by clause (b) of sub-section (1) of section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Bombay, within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/497/83 Cus.VIII]

का.आ. 1643:—भारत सरकार के संयुक्त सचिव ने, जिसे मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशेष रूप से सशक्त किया गया है, उक्त उपधारा के अधीन आदेश फा.सं. 673/498/88-सी.गु.-viii, तारीख 13-10-88 यह निदेश देते हुए

जारी किया था कि श्री मुबारक मोहम्मद मुबारक हाउस, नजदीक रेलवे स्टेशन, कसार्गोड, केरल, को निरुद्ध करके केन्द्रीय कारागार, बम्बई में अभिरक्षा में रखा जाए ताकि उसे माल की तस्करी करने से रोका जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके।

3. अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि पूर्वोक्त व्यक्ति इस आदेश के राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस महानिदेशक, त्रिवेंद्रम, केरल के समक्ष हाजिर हों।

[फा.सं. 673/498/88-सी.गु.-8]

S.C. 1643.—Whereas the Joint Secretary to the Government of India specifically empowered under sub-section (1) of section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/498/88-Cus. VIII dated 13-10-88 under the said sub-section directing that Shri Subail Mohammed, Mubarak House, Near Rly. Station Kasargod, Kerala be detained and kept in custody in the Central Prison, Bombay with a view to preventing him from smuggling goods.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of power conferred by clause (b) of sub-section (1) of section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the D. G. of Police, Trivendrum, Kerala within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/498/88-Cus.VIII]

का.आ. 1644:—भारत सरकार के संयुक्त सचिव ने, जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशेष रूप से सशक्त किया गया है, उक्त उपधारा के अधीन आदेश फा.सं. 673/509/88-सी.गु.-VIII, तारीख 12-10-88 यह निदेश देते हुए जारी किया था कि श्री हुसैन अब्दुल्ला अब्दुल बाहेब अल बख्शी, किंग फाहेद स्टीड, दम्हाम, सऊदी अरेबिया, को निरुद्ध करके केन्द्रीय कारागार, बम्बई में अभिरक्षा में रखा जाए ताकि उसे माल की तस्करी करने से रोका जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके;

3. अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि पूर्वोक्त व्यक्ति इस आदेश के राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस आयुक्त, बम्बई के समक्ष हाजिर हों।

[फा.सं. 673/509/88-सी.गु.-8]

S.O. 1644.—Whereas the Joint Secretary to the Government of India specifically empowered under sub-section (1) of section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/509/88/Cus. VIII dated 12-10-88 under the said sub-section directing that Mr. Hassan Abdulla Abdul Wahab Al Baqshi, King Faneed Street, Dammam, Saudi Arabia be detained and kept in custody in the Central Prison, Bombay with a view to preventing him from smuggling goods.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of power conferred by clause (b) of sub-section (1) of section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Bombay, within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/509/88-Cus.VIII]

का.आ. 1645.—भारत सरकार के संयुक्त सचिव, ने, जिसे विदेशी मुद्रा संरक्षण और नकली निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशेष रूप से सशक्त किया गया है, उक्त उपधारा के अधीन आदेश का.सं. 673/510/88-सी.श. VIII, तारीख 12-10-88 यह निदेश देने हुए जारी किया था कि श्री अहमद देशास्ती हाजीबाद, किराँसे ऐवेन्यू, प्लॉट नं. 1, नेहरान, ईरान, को निरुद्ध करके केन्द्रीय कारागार, बम्बई में अभिरक्षा में रखा जाए, ताकि उसे माल की नकली करने से रोका जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके।

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए, यह निदेश देता है कि पूर्वोक्त व्यक्ति इस आदेश के राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस आयुक्त, बम्बई के समक्ष हजरि हों।

[का.सं. 673/510/88-सी.श.-8]

S.O. 1645.—Whereas the Joint Secretary to the Government of India specifically empowered under sub-section (1) of section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/510/88-Cus. VIII dated 12-10-88 under the said sub-section directing that Shri Ahmed Dedhashti Haghighat, Firdosi Avenue, Plot No. 1, Tehran, Iran be detained and kept in custody in the Central Prison, Bombay with a view to preventing him from smuggling goods.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of power conferred by clause (b) of sub-section (1) of section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Bombay,

within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/510/88-Cus.VIII]

का.आ. 1646.—भारत सरकार के संयुक्त सचिव ने, जिसे विदेशी मुद्रा संरक्षण और नकली निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशेष रूप से सशक्त किया गया है, उक्त उपधारा के अधीन आदेश का.सं. 673/512/88-सी.श. VIII तारीख 12-10-88 यह निदेश देने हुए जारी किया था कि श्री नूर अहमद, पुत्र श्री हाजी जान मुहम्मद, 1, शाप्प मंजिल, मुहम्मद बिन कासिम रोड, बोरस रोड, कराची, को निरुद्ध करके अभिरक्षा में रखा जाए, ताकि उसे माल की नकली करने से रोका जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके।

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए, यह निदेश देती है कि पूर्वोक्त व्यक्ति इस आदेश के राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस आयुक्त, बम्बई के समक्ष हजरि हों।

[का.सं. 673/512/88-सी.श. 8]

S.O. 1646.—Whereas the Joint Secretary to the Government of India specifically empowered under sub-section (1) of section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/512/88-Cus. VIII dated 12-10-88 under the said sub-section directing that Shri Noor Ahmed, S/o Haji Jan Mohammed, 1, Shams Manzil, Mohammed Bin Quasim Road, Boras Road, Karachi, be detained and kept in custody in the Central Prison, Bombay, with a view to preventing him from smuggling goods.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of power conferred by clause (b) of sub-section (1) of section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Bombay, within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/512/88-Cus.VIII]

का. आ. 1647.—भारत सरकार के संयुक्त सचिव ने, जिसे विदेशी मुद्रा संरक्षण और नकली निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशेष रूप से सशक्त किया गया है, उक्त उपधारा के अधीन आदेश का.सं. 673/514/88-सी.श.-VIII, तारीख 12-10-88 यह निदेश देने हुए जारी किया था कि श्री अण्णर गोपाळ, ब्लॉक 106 द्वारा तल, एच.ए.एन. 4026/टाउनल रोड, मिगापुर-1232, को निरुद्ध करके केन्द्रीय कारागार, बम्बई में अभिरक्षा में रखा जाए, ताकि उसे माल की नकली करने से रोका जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके।

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करने

हुए, यह निदेश देती है कि पूर्वोक्त व्यक्ति इस आदेश के राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस आयुक्त बम्बई के समक्ष हजरि हो।

[फा.सं. 673/514/88-सी.शु.-8]

S.O. 1647.—Whereas the Joint Secretary to the Government of India specifically empowered under sub-section (1) of section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/514/88-Cus. VIII dated 12-10-88 under the said sub-section directing that Shri Shankar Gopal, Block 106, 2nd Floor HSL 426 Townel Road, Singapore-1232 be detained and kept in custody in the Central Prison, Bombay, with a view to preventing him from the smuggling goods;

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of power conferred by clause (b) of sub-section (1) of section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Bombay, within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/514/88-Cus.VIII]

the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Bombay within 7 days of the publication of this order in the official Gazette.

[F. No. 673/515/88-Cus.VIII]

का.प्रा. 1649—भारत सरकार के संयुक्त सचिव ने, जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशेष रूप से सशक्त किया गया है, उक्त उपधारा के अधीन आदेश फा.सं. 673/516/88-सी.शु.-8, तारीख 12-10-88 यह निदेश देते हुए जारी किया था कि श्री सईद मोहम्मद जाफर हशेनी मनेश, डोनाल्ड हाउस, बिजली घर के सामने, पिकाडेली रेस्तरा, कोलाबा बम्बई और सिरुक एवेन्यू, नं. 756, तेहरान, ईरान को निरुद्ध करके केन्द्रीय कारागार बम्बई में अभिरक्षा में रखा जाए ताकि उसे माल की तस्करी करने में रोक जा सके;

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके;

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि पूर्वोक्त व्यक्ति इस आदेश के राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस आयुक्त बम्बई के समक्ष हजरि हो।

[फा.सं. 673/516/88-सी.शु.-8]

का.प्रा. 1648—भारत सरकार के संयुक्त सचिव ने, जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशेष रूप से सशक्त किया गया है, उक्त उपधारा के अधीन आदेश फा.सं. 673/515/8-सी.शु. 8 तारीख 12-10-88 यह निदेश देते हुए जारी किया था कि श्री गुरुचरण सिंह, 653, रीग्रुपिंग एरिया, मंगलंबु, पेरै, मलेशिया को निरुद्ध करके केन्द्रीय कारागार, बम्बई में अभिरक्षा में रखा जाए ताकि उसे माल की तस्करी करने से रोक जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके।

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि पूर्वोक्त व्यक्ति इस आदेश के राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस आयुक्त, बम्बई, के समक्ष हजरि हो।

[फा.सं. 673/515/88-सी.शु.-8]

S.O. 1648.—Whereas the Joint Secretary to the Government of India specially empowered under sub-section (1) of section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/515/88-Cus. VIII dated 12-10-88 under the said sub-section directing that Shri Gurucharan Singh, 653, Regrouping Area, Manglembu, Perai, Malaysia be detained and kept in custody in the Central Prison, Bombay with a view to preventing him from smuggling goods.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of power conferred by clause (b) of sub-section (1) of section 7 of the said Act,

S.O. 1649.—Whereas the Joint Secretary to the Government of India specially empowered under sub-section (1) of section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/516/88-Cus.VIII dated 12-10-88 under the said sub-section directing that Shri Seyed Mohammad Jaffer Hasheni Manesh, Donald House, Opposite Electric House, Picadely Restaurant, Colaba, Bombay and Siruc Avenue No. 756, Tehran, Iran be detained and kept in custody in the Central Prison, Bombay with a view to preventing him from smuggling goods;

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of power conferred by clause (b) of sub-section (1) of section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Bombay within 7 days of the publication of this order in the official Gazette.

[F. No. 673/516/88-Cus.VIII]

का.प्रा. 1650—भारत सरकार के संयुक्त सचिव ने, जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशेष रूप से सशक्त किया गया है, उक्त उपधारा के अधीन आदेश फा.सं. 673/517/88-सी.शु.-8, तारीख 12-10-88 यह निदेश देते हुए जारी किया था कि श्री अब्दुल रज्जाम बजरीश सबह, सी, डोनाल्ड हाउस, बिजली घर के सामने, पिकाडेली रेस्तरा कोलाबा, बम्बई को निरुद्ध करके केन्द्रीय कारागार बम्बई में अभिरक्षा में रखा जाए ताकि उसे माल की तस्करी करने से रोक जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके;

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि पूर्वोक्त व्यक्ति इस आदेश के राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस आयुक्त, बम्बई के समक्ष हाजिर हो।

[फा.सं. 673/517/88-सो.गु.-8]

3. Now, therefore, in exercise of power conferred by clause (b) of sub-section (1) of section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Bombay within 7 days of the publication of this order in the official Gazette.

[F. No. 673/518/88-Cus.VIII]

S.O. 1650.—Whereas the Joint Secretary to the Government of India specially empowered under sub-section (1) of section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/517/88-Cus.VIII dated 12-10-88 under the said sub-section directing that Shri Abdol Razagh Vajodi Ghavesh Chi, Donald House, Opposite Electric House Picadely Restaurant, Colaba, Bombay, be detained and kept in custody in the Central Prison, Bombay, with a view to preventing him from smuggling goods.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of power conferred by clause (b) of sub-section (1) of section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Bombay within 7 days of the publication of this order in the official Gazette.

[F. No. 673/517/88-Cus.VIII]

का.आ. 1652.—भारत सरकार के संयुक्त सचिव ने, जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशेष रूप से सशक्त किया गया है, उक्त उपधारा के अधीन आदेश फा.सं. 673/522/88-सो.गु.-8 तारीख 13-10-88 यह निदेश देने हुए जारी किया था कि श्री फारूक मोहम्मद सुय्य, 69-ममोनवाड़ा, फेंसी मेशन, प्रथम तल, कमरा नं. 2, बम्बई-3 को निम्न करके केन्द्रीय कारागार, बम्बई में अतिरक्षा में रखा जाए ताकि उसे माल की तस्करी करने में रोक जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे आदेश का निष्पादन नहीं हो सके।

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि पूर्वोक्त व्यक्ति इस आदेश के राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस आयुक्त, बम्बई के समक्ष हाजिर हो।

[फा.सं. 673/522/88-सो.गु.-8]

S.O. 1652.—Whereas the Joint Secretary to the Government of India specifically empowered under sub-section (1) of section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/522/88-Cus.VIII dated 13-10-88 under the said sub-section directing that Shri Farooq Mohammed Soorya, 69, Manpada Road, Fancy Mansion, 1st floor, Rom No. 2, Bombay-3, be detained and kept in custody in the Central Prison, Bombay, with a view to preventing him from smuggling goods;

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of power conferred by clause (b) of sub-section (1) of section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Bombay within 7 days of the publication of this order in the official Gazette.

[F. No. 673/522/88-Cus.VIII]

का.आ. 1651.—भारत सरकार के संयुक्त सचिव ने, जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशेष रूप से सशक्त किया गया है, उक्त उपधारा के अधीन आदेश फा.सं. 673/518/88-सो.गु.-8 तारीख 12-10-88 यह निदेश देने हुए जारी किया था कि श्री हुसैन, पुत्र सफ़ुद्दीन, आदम खाना मोहल्ला, प्रतापगढ़, जिला चित्तौर, राजस्थान को निम्न करके केन्द्रीय कारागार, बम्बई में अतिरक्षा में रखा जाए ताकि उसे माल की तस्करी करने में रोक जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके।

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि पूर्वोक्त व्यक्ति इस आदेश के राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस आयुक्त, बम्बई के समक्ष हाजिर हो।

[फा.सं. 673/518/88-सो.गु.-9]

S.O. 1651.—Whereas the Joint Secretary to the Government of India specially empowered under sub-section (1) of section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/518/88-Cus.VIII dated 12-10-88 under the said sub-section directing that Shri Hussaini, S/o Saifuddin, Adam Khana Mohalla, Prataphgath, District Chittore, Rajasthan, be detained and kept in custody in the Central Prison, Bombay, with a view to preventing him from smuggling goods;

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

का.आ. 1653.—भारत सरकार के संयुक्त सचिव ने, जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशेष रूप से सशक्त किया गया है, उक्त उपधारा के अधीन आदेश फा.सं. 673/524/88-सो.गु.-8, तारीख 14-10-89 यह निदेश देने हुए जारी किया था कि मेसकर हाउस, डाकघर पेनीर, संगलीर, दक्षिण कन्नारा, कर्नाटक राज्य के श्री मोहम्मद शकवान पकीर को निम्न करके केन्द्रीय कारागार, बम्बई में अतिरक्षा में रखा जाए ताकि उसे माल की तस्करी करने में रोक जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके,

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि पूर्वोक्त व्यक्ति इस आदेश के राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस आयुक्त, बम्बई के समक्ष हाजिर हो।

[फा.सं. 673/524/88-सी.गु. 8]

S.O. 1653.—Whereas the Joint Secretary to the Government of India specially empowered under sub-section (1) of section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/524/88-Cus.VIII dated 14-10-88 under the said sub-section directing that Shri Mohammed Iqbal Fakir, Melkar House, P.O. Paneer Sanglore, South Kanara, Karnataka State, be detained and kept in custody in the Central Prison, Bombay, with a view to preventing him from smuggling goods,

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of power conferred by clause (b) of sub-section (1) of section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Bombay within 7 days of the publication of this order in the official Gazette.

[F. No. 673/524/8-Cus.VIII]

फा.सं. 1654.—भारत सरकार के संयुक्त सचिव ने, जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशेष रूप से मण्डल किया गया है, उक्त उपधारा के अधीन आदेश फा.सं. 673/525/88-सी.गु.-8 तारीख 14-10-88 यह निर्देश देने हुए जारी किया था कि श्री शम्भू-समर्द देवकुल भाई शामी, कमरा नं. 2, प्रथम तल, बन्दूकवाला बिल्डिंग, 17, नामदेवी श्राम सेत, मोहम्मद अली रोड, बम्बई, को निरुद्ध करके केन्द्रीय कारागार बम्बई में अभिरक्षा में रखा जाए ताकि उसे मान की तस्करी करने के लिए प्रेरित करने में रोका जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके ;

3 अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि पूर्वोक्त व्यक्ति इस आदेश के राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस आयुक्त, बम्बई के समक्ष हाजिर हो।

[फा.सं. 673/525/88-सी.गु. 8]

S.O. 1654.—Whereas the Joint Secretary to the Government of India specially empowered under sub-section (1) of section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/525/88-Cus.VIII dated 14-10-88

under the said sub-section directing that Shri Abbasbhai Heptullabhai Vasi, Room No. 2, 1st floor, Bandukwala Bldg., 17, Nagdevi Cross Lane, Mohd. Ali Road, Bombay, be detained and kept in custody in the Central Prison, Bombay, with a view to preventing him from abetting the smuggling of goods.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of power conferred by clause (b) of sub-section (1) of section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Bombay within 7 days of the publication of this order in the official Gazette.

[F. No. 673/525/88-Cus.VIII]

फा.सं. 1655.—भारत सरकार के संयुक्त सचिव ने, जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशेष रूप से मण्डल किया गया है, उक्त उपधारा के अधीन आदेश फा.सं. 673/527/88-सी.गु. 8 तारीख 12-10-88 यह निर्देश देने हुए जारी किया था कि श्री हरनेक सिंह, एच-175, सुधा विहार, दिल्ली को निरुद्ध करके केन्द्रीय कारागार बम्बई में अभिरक्षा में रखा जाए ताकि उसे मान की तस्करी करने में रोका जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके,

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि पूर्वोक्त व्यक्ति इस आदेश के राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस आयुक्त, बम्बई के समक्ष हाजिर हो।

[फा.सं. 673/527/88-सी.गु. 8]

S.O. 1655.—Whereas the Joint Secretary to the Government of India specially empowered under sub-section (1) of section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/525/88-Cus.VIII dated 12-10-88 under the said sub-section directing with Shri Harnok Singh, H-175 Suddha Vihar, Delhi, be detained and kept in custody in the Central Prison, Bombay, with a view to preventing him from smuggling goods.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of power conferred by clause (b) of sub-section (1) of section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Bombay, within 7 days of the publication of this order in the official Gazette.

[F. No. 673/527/88-Cus. VIII]

फा.सं. 1656.—भारत सरकार के संयुक्त सचिव ने, जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 का (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशेष रूप से मण्डल किया गया है, उक्त उपधारा के अधीन आदेश फा.सं. 673/536/88

सा. प्र. 8 तारीख 14-10-88 यह निदेश देते हुए जारी किया गया था कि श्री विरम भास्कर पाटिल, 115, गीत गोविन्द सोसाइटी, तिलक नगर, चिबुर, बम्बई-70 और कोबी. शान्ति निवास, कोल्हापुर के निवास करने केन्द्रिय कारागार, बम्बई, में रखा जाए ताकि उसे माय की तस्करी करने से रोका जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उसका आदेश का निष्पादन नहीं हो सके;

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उप-धारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि पूर्वोक्त व्यक्ति इस आदेश के राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस आयुक्त, बम्बई के समक्ष हजरि हो।

[फा. सं. 673/556/88-सी. प्र. -8]

S.O. 1656.—Whereas the Joint Secretary to the Government of India specially empowered under sub-section (1) of section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/556/88-Cus.VIII dated 14-10-88 under the said sub-section directing that Shri Kiran Eknath Patil, 115, Geet Govind Society, 11rd Floor, Tilak Nagar, Chembur, Bombay-70 And Kobi. Shanti Nivas, Kolhapur, be obtained and kept in custody in the Central Prison, Bombay, with a view to preventing him from smuggling goods.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of power conferred by clause (b) of sub-section (1) of section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Bombay, within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/556/88-CUS.VIII]

फा. प्र. 1657.—भारत सरकार के संयुक्त सचिव ने, जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशेष रूप से सशक्त किया गया है, उक्त उपधारा के अधीन आदेश फा. सं. 673/557/88-सी. प्र. -8, तारीख 14-10-88 यह निदेश देते हुए जारी किया था कि श्री दिलीप प्रसाद गुज्जर और संतराम अग्रवाल, 434 रामपुरा, तिनगर, दिल्ली को निरुद्ध करके केन्द्रीय कारागार, तिनगर, बम्बई में अभिरक्षा में रखा जाए ताकि उसे माय की तस्करी करने से रोका जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उसका आदेश का निष्पादन नहीं हो सके;

3. अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 7 की उप-धारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि पूर्वोक्त व्यक्ति इस आदेश के राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस आयुक्त, बम्बई के समक्ष हजरि हो।

[फा. सं. 673/557/88-सी. प्र. -8]

S.O. 1657.—Whereas the Joint Secretary to the Government of India specially empowered under sub-section (1) of section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order, F. No. 673/557/88-Cus.VIII dated 14-10-88 under the said sub-section directing that Shri Dilip Champaklal Hublikar, Room No. 6, 3rd Floor, 157, Zaveri Building, Princess Street, Bombay-400002, be detained and kept in custody in the Central Prison, Bombay with a view to preventing him from smuggling goods.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of power conferred by clause (b) of sub-section (1) of section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Bombay within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/557/88-Cus.VIII]

फा. प्र. 1658.—भारत सरकार के संयुक्त सचिव, जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशेष रूप से सशक्त किया गया है, उक्त उपधारा के अधीन आदेश फा. सं. 673/573/88-सी. प्र. -8, तारीख 14-10-88 यह निदेश देते हुए जारी किया था कि श्री महावीर प्रसाद गुज्जर और संतराम अग्रवाल, 434 रामपुरा, तिनगर, दिल्ली को निरुद्ध करके केन्द्रीय कारागार, तिनगर, बम्बई में रखा जाए ताकि उसे माय की तस्करी करने से रोका जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उसका आदेश का निष्पादन नहीं हो सके ; और

3. अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 7 की उप-धारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि पूर्वोक्त व्यक्ति इस आदेश के राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस आयुक्त, दिल्ली के समक्ष हजरि हो।

[फा. सं. 673/573/88-सी. प्र. -8]

S.O. 1658.—Whereas the Joint Secretary to the Government of India specially empowered under sub-section (1) of section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/573/88-Cus.VIII dated 14-10-88 under the said sub-section directing that Shri Mahavir Prasad, S/o Shri Santram Aggarwal, 434, Ram Pura, Tri Nagar, Delhi, be detained and kept in custody in the Central Prison, Tihar, Delhi, with a view to preventing him from engaging in keeping smuggled goods.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of power conferred by clause (b) of sub-section (1) of section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Delhi, within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/573/88-CUS.VIII]

का. आ. 1659—भारत सरकार के संयुक्त सचिव ने, जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशेष रूप से सशक्त किया गया है, उक्त उपधारा के अधीन आदेश फा. सं. 673/574/88-सी. शु. 8 तारीख 14-10-88 यह निदेश देते हुए जारी किया था कि श्री मुकुन्द लाल पुत्र श्री साई दित्त मल, ए. 1/220, पश्चिम बिहार, नई दिल्ली को निरुद्ध करके केन्द्रीय कारागार दिल्ली में अगिरक्षा में रखा जाए ताकि उसे तस्करी के माल को लाने-ले-जाने अथवा उसे छिपाने अथवा रखने के कार्य में लिये रहने के अलावा तस्करी के माल का धंसा करने से रोका जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके;

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि पूर्वोक्त व्यक्ति इस आदेश के राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस आयुक्त, नई दिल्ली, के समक्ष हाजिर हो।

[फा. सं. 673/574/88-सी. शु.-S]

ORDER

S.O. 1659.—Whereas the Joint Secretary to the Government of India specially empowered under sub-section 1 of section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/574/88-Cus. VIII dated 14-10-88 under the said sub-section directing that Shri Mukund Lal, S/o Shri Sai Ditto Mal, AI/220, Pachim Vihar, New Delhi, be detained and kept in custody in the Central Prison, Delhi, with a view to preventing him from dealing in smuggled goods otherwise than by engaging in transporting or concealing or keeping smuggled goods.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now therefore, in exercise of power conferred by clause (b) of sub-section (1) of section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Delhi, within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/574/88-CUS. VII]

का. आ. 1660—भारत सरकार के संयुक्त सचिव ने, जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशेष रूप से सशक्त किया गया है, उक्त उपधारा के अधीन आदेश फा. सं. 673/593/88-सी. शु. 8, तारीख 6-1-89 यह निदेश देते हुए जारी किया था कि श्री मान सिंह, 52-ए, करवार स्ट्रीट, बाजू कोटक मार्ग, पोर्ट मार्केट, बम्बई, को निरुद्ध करके केन्द्रीय कारागार, तिहाड़, नई दिल्ली में अगिरक्षा में रखा जाए ताकि उसे माल की तस्करी करने के लिए उत्प्रेरित करने से रोका जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके;

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए,

यह निदेश देती है कि पूर्वोक्त व्यक्ति इस आदेश के राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस आयुक्त, दिल्ली के समक्ष हाजिर हो।

[फा. सं. 673/593/88-सी. शु.-S]

S.O. 1660.—Whereas the Joint Secretary to the Government of India specially empowered under sub-section 1 of section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/593/88-Cus. VIII dated 6-1-89 under the said sub-section directing that Shri Man Singh, 52A Karwar Street, Vaju Kotak Marg, Port Market, Bombay, be detained and kept in custody in the Central Jail, Tihar, New Delhi, with a view to preventing him from abetting the smuggling of goods.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of power conferred by clause (b) of sub-section (1) of section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Delhi, within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/593/88-CUS. VIII]

का. आ. 1661—भारत सरकार के संयुक्त सचिव ने, जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशेष रूप से सशक्त किया गया है, उक्त उपधारा के अधीन आदेश फा. सं. 673/597/88-सी. शु.-8 तारीख 6-1-89 यह निदेश देते हुए जारी किया था कि श्री धीरेन कपाडिया (उर्फ डी. के. जैन, उर्फ डी. के.), निवासी 52 ए, कारवार बाजू कोटक मार्ग, पोर्ट, बम्बई को निरुद्ध करके केन्द्रीय कारागार, तिहाड़, नई दिल्ली में अगिरक्षा में रखा जाए ताकि उसे माल की तस्करी करने के लिए उत्प्रेरित करने से रोका जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके;

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि पूर्वोक्त व्यक्ति इस आदेश के राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस, आयुक्त दिल्ली के समक्ष हाजिर हो।

[फा. सं. 673/597/88 सी. शु.-8]

ORDER

S.O. 1661.—Whereas the Joint Secretary to the Government of India specially empowered under sub-section 1 of section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/597/88-Cus. VIII dated 6-1-89 under the said sub-section directing that Shri Dhiren Kapadia (Alias D. K. Jain Alias D. K.), R/o 52A Karwar Street, Vaju Kotak Marg, Fort, Bombay, be detained and kept in custody in the Central Jail, Tihar, New Delhi, with a view to preventing him from abetting the smuggling of goods.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of power conferred by clause (b) of sub-section (1) of section 7 of the said Act, the

Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Delhi, within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/597/88-CUS. VIII]

का. आ. 1662.—भारत सरकार के संयुक्त सचिव ने जिसे विदेशी मूद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशेष रूप से सशक्त किया गया है, उक्त उपधारा के अधीन आदेश का. सं. 673/598/88-सी. गु. 8 तारीख 16-12-88 यह निदेश देते हुए जारी किया था कि श्री तोहीद, पुत्र मुहम्मद, शरिफ, सटजी मण्डी केयराना, जिला मुजफ्फरनगर, उत्तर-प्रवेश को निरुद्ध करके केन्द्रीय जेल, अमृतसर, में अभिरक्षा में रखा जाए ताकि उसे तस्करी के माग को रखने के कार्य में लिप्त रहने और माग की तस्करी करने के लिए वृत्तिवित करने से रोका जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके ;

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि पूर्वोक्त व्यक्ति इस आदेश के राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस महानिदेशक पंजाब सरकार चण्डीगढ़ के समक्ष हाजिर हो।

[का. सं. 673/598/88 सी. गु. 8]

S.O. 1662.—Whereas the Joint Secretary to the Government of India specially empowered under sub-section (1) of section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/598/88-Cus. VIII dated 16-12-88 under the said sub-section directing that Shri Tohid, S/o Mohd. Shariff, Subzi Mundi Kairana, District Muzaffar Nagar, Uttar Pradesh be detained and kept in custody in the Central Jail, Amritsar, with a view to preventing him from engaging in keeping smuggled goods and abetting the smuggling of goods.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of power conferred by clause (b) of sub-section (1) of section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Director General of Police, Government of Punjab, Chandigarh, within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/598/88-CUS. VIII]

का. आ. 1663.—भारत सरकार के संयुक्त सचिव ने, जिसे विदेशी मूद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशेष रूप से सशक्त किया गया है उक्त उपधारा के अधीन आदेश का. सं. 673/600/88-सी. गु.-8, तारीख 7-12-88 यह निदेश देते हुए जारी किया था कि श्री गिरधारी नेतुमन पंजाबी, मार्फन मै. मोडैस्टी कॉर्पोरेशन, मिटल टावर्स, बम्बई और 42/43, सेवा अपार्टमेंट्स 33B की सीसरी रोड खार, बम्बई को निरुद्ध करके केन्द्रीय जेल, तिहार, नई दिल्ली में अभिरक्षा में रखा जाए ताकि उसे तस्करी के माग को लाने-जाने के कार्य में लिप्त रहने के अलावा तस्करी के माग को धंधा करने से रोका जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके ;

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि पूर्वोक्त व्यक्ति इस आदेश के राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस आयुक्त नई दिल्ली के समक्ष हाजिर हो।

[का. सं. 673/700/88-सी. गु. -8]

S.O. 1663.—Whereas the Joint Secretary to the Government of India specially empowered under sub-section 1 of section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673600/88-Cus. VIII dated 7-12-88 under the said sub-section directing that Shri Girdhari Nenumal Panjabi, C/o M/s. Modesto Corporation, Mittal towers, Bombay and 42/43, Sewa Apartments, 33B, 3rd Road, Khar, Bombay-52 be detained and kept in custody in the Central Jail, Tihar, New Delhi with a view to preventing him from dealing in smuggled goods otherwise than by engaging in transporting or concealing or keeping smuggled goods;

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of power conferred by clause (b) of sub-section (1) of section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner Police, Bombay within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/600/88-CUS. VIII]

का. आ. 1664.—भारत सरकार के संयुक्त सचिव ने, जिसे विदेशी मूद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशेष रूप से सशक्त किया गया है, उक्त उपधारा के अधीन आदेश का. सं. 673/610/88-सी. गु. 8 तारीख 13-12-88 यह निदेश देते हुए जारी किया था कि अमजद शेख, पुत्र अशोद शेख, ग्राम-कृष्णासैल, डाकघर खर्मा, पुलिस थाना चम्पनाथ गंज, जिला मुंशिदाबाद, पश्चिम बंगाल, को निरुद्ध करके प्रिजिडेंसी जेल, कलकत्ता में अभिरक्षा में रखा जाए ताकि उसे तस्करी के माग को लाने-जाने के कार्य में लिप्त रहने से रोका जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके ;

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि पूर्वोक्त व्यक्ति इस आदेश के राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस महानिदेशक, पश्चिम बंगाल, कलकत्ता के समक्ष हाजिर हो।

[का. सं. 673/610/88-सी. गु.-8]

S.O. 1664.—Whereas the Joint Secretary to the Government of India specially empowered under sub-section 1 of section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued

order F. No. 673/610/88-Cus. VIII dated 13-12-88 under the said sub-section directing that Shri Amjad Seikh S/o Bashed Seikh, Village Krishnasail, P.O. Khamra, P. S. Raghumathganj, Dist. Murshidabad, West Bengal be detained and kept in custody in the Presidency Jail, Calcutta with a view to preventing him from engaging in transporting smuggled goods;

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of power conferred by clause (b) of sub-section (1) of section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Director General of Police, West Bengal, Calcutta within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/610/88-CUS. VIII]

का. प्रा. 1665:—भारत सरकार के संयुक्त सचिव ने, जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशेष रूप से मशकत किया गया है, उक्त उपधारा के अधीन आदेश फा. सं. 673/612/88-सी. शु. 8 तारीख 13-12-88 यह निदेश देने हुए जारी किया था कि श्री संतोष धनुका, पुत्र श्री श्याम सुन्दर धनुका, 23-A, कलाकार स्ट्रीट, तीसरा तल, कलकत्ता, 7 को निरुद्ध करके प्रेजी-डेन्सी जेल, अलीपुर, कलकत्ता में अभिरक्षा में रखा जाए ताकि उसे तस्करी के मास को लाने-ले-जाने के कार्य में निपट रहने के अलावा तस्करी के मास को छिपाने तथा रखने और तस्करी के मास का प्रस्था करने से रोका जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके,

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि पूर्वोक्त व्यक्ति इस आदेश के राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस आयुक्त, कलकत्ता के समक्ष हजरि हो।

[फा. सं. 673/612/88-सी. शु. -8]

S.O. 1665.—Whereas the Joint Secretary to the Government of India, specially empowered under sub-section (1) of section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974), issued order F. No. 673/612/88-Cus. VIII dated 13-12-88 under the said sub-section directing that Shri Santosh Dhanuka, S/o Shri Shyam Sunder Dhanuka, 23-A, Kalakar Street, 3rd Floor Calcutta-7, be detained and kept in custody in the Presidency Jail, Alipore, Calcutta, with a view to preventing him from engaging in concealing and keeping smuggled goods and dealing in smuggled goods otherwise than by engaging in transporting smuggled goods.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of power conferred by clause (b) of sub-section (1) of section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police Calcutta, within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/612/88-CUS VIII]

का. प्रा. 1666:—भारत सरकार के संयुक्त सचिव ने, जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशेष रूप से मशकत किया गया है, उक्त उपधारा के अधीन आदेश फा. सं. 673/614/88-सी. शु.-8 तारीख 16-12-88 यह निदेश देने हुए जारी किया था कि श्री जयवन्त मिश्र गुजरात, भाग्यवीथ पावपाठ सं. सी - 100743 धारक, 5A/16, संगीता एपार्टमेंट, लीडो सिनेमा के पीछे, जुहू रोड, जुहू, बम्बई-54, को निरुद्ध करके डमडम केन्द्रीय जेल, डमडम, कलकत्ता अभिरक्षा में रखा जाए ताकि उसे मास की तस्करी करने से रोका जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके,

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि पूर्वोक्त व्यक्ति इस आदेश के राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस आयुक्त, कलकत्ता के समक्ष हजरि हो।

[फा. सं. 673/614/88-सी. शु.-8]

S.O. 1666.—Whereas the Joint Secretary to the Government of India specially empowered under sub-section (1) of section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/614/88-Cus. VIII dated 16-12-88 under the said sub-section directing that Shri Jaswant Singh Gujral, Holder of Indian Passport No. B-100743, 5A/16, Sangeeta Apartments, Behind Lido Cinema, Juhu Road, Juhu, Bombay-54, be detained and kept in custody in the Dum Dum Central Jail, Dum Dum, Calcutta, with a view to preventing him from smuggling goods.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of power conferred by clause (b) of sub-section (1) of section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Delhi, within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/614/88-CUS. VIII]

का. प्रा. 1667:—भारत सरकार के संयुक्त सचिव ने, जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशेष रूप से मशकत किया गया है, उक्त उपधारा के अधीन आदेश फा. सं. 67/628/88-सी. शु.-8, तारीख 29-12-88 यह निदेश देने हुए जारी किया था कि श्री हाजी हाजी इस्माइल मुबारिया, बालीबाग, मन्नाता गिला जामनगर को निरुद्ध करके केन्द्रीय कारागार, गावरमनी, ग्रामवाबाद में अभिरक्षा में रखा जाए ताकि उसे तस्करी के मास को लाने-ले-जाने अथवा उसे छिपाने या रखने के कार्य में निपट रहने के अलावा मास की तस्करी करने के लिए वृत्ति करने तथा तस्करी के मास का प्रस्था करने से रोका जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास होने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके;

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उप-धारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि पूर्वोक्त व्यक्ति इस आदेश के राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस महानिदेशक, गुजरात, गांधीनगर के समक्ष हजरि हो।

[फा. सं. 673/628/88-सी. गु.-8]

S.O. 1667.—Whereas the Joint Secretary to the Government of India specially empowered under sub-section (1) of section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/628/88-Cus. VIII dated 29-12-88 under the said sub-section directing that Shri Haji Haji Ismail Sumbhanja Barlewas, Salaya, District Jamnagar, be detained and kept in custody in the Central Prison, Sabarmati, Ahmedabad, with a view to preventing him from abetting the smuggling of goods and dealing in smuggled goods otherwise than by engaging in transporting or concealing or keeping smuggled goods.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of power conferred by clause (b) of section (1) of section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Director General of Police Gujarat Nagar within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/628/88-CUS. VIII]

फा. सं. 1668:—भारत सरकार के संयुक्त सचिव ने, अपने विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3, की उपधारा (1) के अधीन विशेष रूप से सशक्त किया गया है, उक्त उपधारा के अधीन आदेश फा. सं. 673/629/88-सी. गु.-8 तारीख 29-12-88 यह निदेश देते हुए जारी किया था कि श्री कासम अबू भोकल, बारलोवास, धेरीपाछो जाम सयाया, जिला-जामनगर, गुजरात, को निरुद्ध करके केन्द्रीय कारागार, साबरमती, अहमदाबाद में अभिरक्षा में रखा जाए ताकि उसे तस्करी के माल को लाने-ले-जाने अथवा उसे छिपाने या रखने के कार्य में लिप्त रहने के अलावा माल की तस्करी करने के लिए दुर्योचित करने और तस्करी के माल का धंधा करने से रोका जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके;

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि पूर्वोक्त व्यक्ति इस आदेश के राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस महानिदेशक, गुजरात, गांधीनगर के समक्ष हजरि हो।

[फा. सं. 673/629/88-सी. गु.-8]

S.O. 1668.—Whereas the Joint Secretary to the Government of India specially empowered under sub-section (1) of section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/629/88-Cus. VIII dated 29-12-88 under the said sub-section directing that Shri Kasam Abu Bhokal, Barlovas, Theripado, Jam Salaya, Distt. Jamnagar, Gujarat be detained and kept in custody in the Central Prison, Sabarmati,

Ahmedabad with a view to preventing him from abetting the smuggling of goods and dealing in smuggled goods otherwise than by engaging in transporting or concealing or keeping smuggled goods.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of power conferred by clause (b) of section (1) of section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Director General of Police, Gujarat Gandhi Nagar within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/629/88-CUS. VIII]

फा. सं. 1669:—भारत सरकार के संयुक्त सचिव, जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशेष रूप से सशक्त किया गया है, उक्त उपधारा के अधीन आदेश फा. सं. 673/630/88-सी. गु.-8, तारीख 29-12-88 यह निदेश देते हुए जारी किया था कि श्री फकीर मामद हाजी हसन, (क) पठान पादा जामखम्भाया, जिला-जामनगर, गुजरात, (ख) फ्लैट नं.-2, तारा अपार्टमेंट्स, जे. पी. पी. डी. स्कीम, बम्बई-400049, को निरुद्ध करके केन्द्रीय कारागार साबरमती, अहमदाबाद में अभिरक्षा में रखा जाए ताकि उसे तस्करी के माल को लाने-ले-जाने अथवा उसे छिपाने अथवा रखने के कार्य में लिप्त रहने के अलावा माल की तस्करी करने के लिए प्रेरित करने और तस्करी के माल का धंधा करने से रोका जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके; और

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि पूर्वोक्त व्यक्ति इस आदेश के राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस आयुक्त, गुजरात, गांधीनगर के समक्ष हजरि हो।

[फा. सं. 673/630/88-सी. गु.-8]

S.O. 1669.—Whereas the Joint Secretary to the Government of India specially empowered under sub-section (1) of section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/630/88-Cus. VIII dated 29-12-88 under the said sub-section directing that Shri Fakir Mamad Haji Hasan, (b) Pathan Padn. Jamkhambalya, iDistt. Jamnagar, Gujarat, (b) Flat No. 2, Tarr Apartments, J.V.P.D. Scheme, Bombay-400049, be detained and kept in custody in the Central Prison, Sabarmati, Ahmedabad, with a view to preventing him from abetting the smuggling of goods and dealing in smuggled goods otherwise than by engaging in transporting or concealing or keeping smuggled goods.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of power conferred by clause (b) of section (1) of section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the D. G. of Police Gujarat Gandhi Nagar within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/630/88-CUS. VIII]

का. भा. 1670 :—भारत सरकार के संयुक्त सचिव ने, जि विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशेष रूप से सशक्त किया गया है, उक्त उपधारा के अधीन आदेश फा. सं. 673/636/88-सी. शु.-8 तारीख 30-12-88 यह निदेश देते हुए जारी किया था कि श्री तेज पाल जैन उर्फ टोनी उर्फ टीनु, पुत्र श्री गुलाब चन्द्र जैन, 1/37, महेश नगर, इन्दौर को निरुद्ध करके केन्द्रीय जेल इन्दौर, में अभिरक्षा में रखा जाए ताकि उसे तस्करी का माल लाने-ले जाने अथवा उसे छिपाने अथवा उसे रखने के कार्य में लिप्त रहने के अलावा माल की तस्करी करने के लिए उत्प्रेरित करने और तस्करा के माल का धंधा करने से रोका जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके।

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 क उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग कर हुए, यह निदेश देती है कि पूर्वोक्त व्यक्ति इस आदेश के राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस महानिदेशक, भापाल, के समक्ष हाजिर हो।

[फा. सं. 673/636/88—सी. शु. -8]

S.O. 1670.—Whereas the Joint Secretary to the Government of India specially empowered under sub-section of section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F No. 673/636/88-Cus. VIII dated 30-12-88 under the said sub-section directing that Shri Tejpal Jain @ Toni @ Tinu, S/o Shri Gulab Chand Jain, 1/37, Mahesh Nagar, Indore, be detained and kept in custody in the Central Jail, Indore, with a view to preventing him from abetting the smuggling of goods and dealing in smuggled goods otherwise than by engaging in transporting or concerning or keeping smuggled goods.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of power conferred by clause (b) of sub-section (1) of section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the D.G. of Police, Bhopal, within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/636/88-CUS. VIII]

का. भा. 1671 :—भारत सरकार के संयुक्त सचिव ने, जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशेष रूप से सशक्त किया गया है, उक्त उपधारा के अधीन आदेश फा. सं. 673/25/89-सी. शु. -8 तारीख 25-1-89 यह निदेश देते हुए जारी किया था कि श्री मामूमिया पंजुमिया उर्फ बापू, जमादार फालिया, मेमानवादा, पोरबन्दर, को निरुद्ध करके केन्द्रीय कारागार, अहमदाबाद, में अभिरक्षा में रखा जाए ताकि उसे माल की तस्करी करने के लिए उत्प्रेरित करने से रोका जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके;

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि पूर्वोक्त व्यक्ति इस आदेश के राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस महानिदेशक, अपराध और रेलवे गुजरात, गांधीनगर के समक्ष हाजिर हो।

[फा. सं. 673/25/89—सी. शु. -8]

S.O. 1671.—Whereas the Joint Secretary to the Government of India specially empowered under sub-section (1) of section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/25/89-Cus. VIII dated 25-1-89 under the said sub-section directing that Shri Mamumiya Panjumiya @ Babu, Jamadar Falia, Memanwad, Porbandar, be detained and kept in custody in the Central Prison, Ahmedabad, with a view to preventing him from abetting the smuggling of goods.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of power conferred by clause (b) of sub-section (1) of section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Director General Police, Crime and Railways, Gujarat, Gandhinagar, within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/25/89-CUS. VIII]

का. भा. 1672.—भारत सरकार के संयुक्त सचिव ने, जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशेष रूप से सशक्त किया गया है, उक्त उपधारा के अधीन आदेश फा. सं. 673/31/89-सी. शु.-VIII, तारीख 25-1-89 यह निदेश देते हुए जारी किया था कि कमरा नं. 203, ए/बी दूसरा तल, रवि केफे, होटल कैलाश पर्वत, सी एम.टी. रोड, कुर्ला बम्बई-70 (2) कुर्ली कांडु, ताल-कुंडापुर, मंगलोर, कर्नाटक, के निवासी शेख मोहम्मद अल्ताफ, आयु 27 वर्ष को निरुद्ध करके केन्द्रीय कारागार, बम्बई में अभिरक्षा में रखा जाए ताकि उसे माल की तस्करी करने से रोका जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके;

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि पूर्वोक्त व्यक्ति इस आदेश के राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस आयुक्त, बम्बई के समक्ष हाजिर हो।

[फा. सं. 673/31/89-सी. शु.-VIII]

S.O. 1672.—Whereas the Joint Secretary to the Government of India specially empowered under sub-section (1) of section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/31/89-Cus. VII dated 25-1-89 under the said sub-section directing that Shri Shaikh Mohd. Altaf, aged 27 years, R. No. 203, A/B 2nd Floor, Ravi Cafe. Hotel Kailash Parbat. CST Road, Kurla, Bombay-70 (2) Kuti Kadu, Tal—Coondapoor, Mangalore, Karnataka, be detained and kept in custody in the Central Prison, Bombay, with a view to preventing him from smuggling goods.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of power conferred by clause (b) of sub-section (1) of section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Bombay, within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/31/89-CUS. VIII]

का.आ. 1673—भारत सरकार के संयुक्त सचिव ने, जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशेष रूप से सशक्त किया गया है, उक्त उपधारा के अधीन आदेश फा. सं. 673/36/89-सी.गु. VIII, तारीख 25-1-89 यह निदेश देते हुए जारी किया था कि श्री मोहम्मद राईस मोहम्मद ईदरसिद्दीक, आयु 26 वर्ष, कमरा नं.

11, दूसरा मांसा, याकूब स्ट्रीट, बम्बई-400003, को निरुद्ध करके केन्द्रीय कारागार, बम्बई, में अभिरक्षा में रखा जाए ताकि उसे तस्करी के मामले को रखने के कार्य में लिप्त रहने से रोका जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके,

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि पूर्वोक्त व्यक्ति इस आदेश के राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस आयुक्त, बम्बई, के समक्ष सजिर हो।

[फा.सं. 673/36/89-सी.गु. VIII]

S.O. 1673.—Whereas the Joint Secretary to the Government of India specially empowered under sub-section (1) of section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/36/89-Cus. VIII dated 25-1-89 under the said sub-section directing that Shri Mohamad Raees Mohamad Idris Khan, aged 26 years, Room No. 11, 2nd Floor, Yakub Street, Bombay-400003, be detained and kept in custody in the Central Prison, Bombay, with a view to preventing him from engaging in keeping smuggled goods.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of power conferred by clause (b) of sub-section (1) of section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Bombay, within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/36/89-CUS. VIII]

का.आ. 1674—भारत सरकार के संयुक्त सचिव, ने, जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशेष रूप से सशक्त किया गया है, उक्त उपधारा के अधीन आदेश फा. सं. 673/36/89 सी.गु. VIII, तारीख 27-1-89 यह निदेश देते हुए जारी किया था कि श्री रियाज अहमद महीक, आयु 35 वर्ष, मैसर्स रियाज इण्टरनेशनल मैनपावर कंसल्टेंट्स, हार्म और ट्रेडिंग, 20 याकूब स्ट्रीट, फ्लैट नं. 3/14, मुहम्मद बर्किंग बम्बई-3(ii) तीसरा तल, 15/17, याकूब स्ट्रीट बम्बई-3 अलरिजा रोस्टन, तीसरा तल, सवीना बिन्दिग, मुसाफिर खाना, बम्बई, को निरुद्ध करके केन्द्रीय कारागार, बम्बई में अभिरक्षा में रखा जाए ताकि उसे तस्करी के मामले को छिपाने उगे रखने और जावे-ले-जाने के

कार्य में लिप्त रहने के अलावा तस्करी के मामले को छिपाने से रोका जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके,

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि पूर्वोक्त व्यक्ति इस आदेश के राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस आयुक्त, बम्बई, के समक्ष सजिर हो।

[फा.सं. 673/37/89-सी.गु. VIII]

S.O. 1674.—Whereas the Joint Secretary to the Government of India specially empowered under sub-section (1) of section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/37/89-Cus. VIII dated 27-1-89 under the said sub-section directing that Shri Riyaz Ahmed Siddique, aged 35 years, M/s. Riyaz International Manpower Consultants, Tours and Travels, 20, Yakub Street, Flat No. 3/14, Mohamad Building, Bombay-3, (ii), 3rd Floor, 15/17, Yakub Street, Bombay-3 (iii) Al-Riyaz Hostel, 3rd Floor, Madina Building, Musafirkhana, Bombay, be detained and kept in custody in the Central Prison, Bombay, with a view to preventing him from dealing in smuggled goods otherwise than by engaging in concealing, keeping and transporting smuggled goods.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed.

3. Now, therefore, in exercise of power conferred by clause (b) of sub-section (1) of section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Bombay, within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/37/89-CUS. VIII]

का.आ. 1675—भारत सरकार के संयुक्त सचिव, जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशेष रूप से सशक्त किया गया है, उक्त उपधारा के अधीन आदेश फा. सं. 673/38/89-सी.गु.-8, तारीख 21-1-89 यह निदेश देते हुए जारी किया था कि श्री अब्दुल्ला अहमद, उम्र 29 वर्ष, उमरा मल्हाट, फातिमा, मंजिल, मौलाना आजाद रोड, बम्बई, को निरुद्ध करके केन्द्रीय कारागार, बम्बई में अभिरक्षा में रखा जाए ताकि उसे तस्करी के मामले को रखने सम्बन्धी कार्यवाही में लिप्त होने से रोका जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके; और

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि पूर्वोक्त व्यक्ति इस आदेश के राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस आयुक्त बम्बई के समक्ष सजिर हो।

[फा. सं. 673/38/89-सी.गु.-VIII]

S.O. 1675.—Whereas the Joint Secretary to the Government of India specially empowered under sub-section (1) of section 3 of the Conservation of Foreign Exchange and

Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/38/89-Cus. VIII dated 27-1-89 under the said sub-section directing that Shri Abdulla Ahmed, aged 29 years, Ujra Mallah, Fatima Manzil, Maulana Azad Road, Bombay, be detained and kept in custody in the Central Prison, Bombay, with a view to preventing him from engaging in keeping smuggled goods.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed.

3. Now, therefore, in exercise of power conferred by clause (b) of sub-section (1) of section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Bombay, within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/38/89-CUS. VIII]

का.आ. 1676—भारत सरकार के संयुक्त सचिव ने, जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशेष रूप से सशक्त किया गया है उक्त उपधारा के अधीन आदेश फा.सं. 673/41/89-सी.गु. VIII तारीख 27-1-89 यह निदेश देते हुए जारी किया था कि श्री मूस्ताक अहमद मुसबा, आयु 22 वर्ष, 25, मसिद स्ट्रीट, पहला माला, बम्बई-3 को निष्काश करके केन्द्रीय कारागार, बम्बई, में अभिरक्षा में रखा जाए ताकि उसे माल की तस्करी करने से रोका जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे सशक्त आदेश का निष्पादन न हो सके,

3. अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 7 की उप धारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि पूर्वोक्त व्यक्ति इस आदेश के राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस आयुक्त बम्बई के समक्ष हाजिर हो।

[फा. सं. 673/41/89सी.गु. VIII]

S.O. 1676.—Whereas the Joint Secretary to the Government of India specially empowered under sub-section (1) of section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/41/89-Cus. VIII dated 27-1-89 under the said sub-section directing that Shri Mushtaq Ahmed Musba, aged 22 years, 25, Masjid Street, 1st Floor, Bombay-3, be detained and kept in custody in the Central Prison, Bombay, with a view to preventing him from smuggling goods.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed.

3. Now, therefore, in exercise of power conferred by clause (b) of sub-section (1) of section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Bombay within 7 days of the publication of this order in the official Gazette.

[F. No. 673/41/89-CUS. VIII]

का.आ. 1677—भारत सरकार के संयुक्त सचिव ने, जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशेष रूप से सशक्त किया गया है, उक्त उपधारा के अधीन आदेश फा. सं. 673/45/89-सी.गु. VIII तारीख 25-1-89 यह निदेश देते हुए जारी किया था कि श्री गोपी

किशन शर्मा, पुत्र श्री घनश्याम दास शर्मा, 13, कालीकृष्ण टैगोर स्ट्रीट, कलकत्ता-7, को निष्काश करके प्रेजीडेंसी जेल, अलीपुर, कलकत्ता, में अभिरक्षा में रखा जाए ताकि उसे तस्करी के माल को लाने-ले-जाने का काम करने से रोका जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके,

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उप धारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि पूर्वोक्त व्यक्ति इस आदेश के राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस महानिदेशक, पश्चिम बंगाल, कलकत्ता के समक्ष हाजिर हो।

[फा. सं. 673/45/89-सी.गु. VIII]

S.O. 1677.—Whereas the Joint Secretary to the Government of India specially empowered under sub-section (1) of section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/45/89-Cus. VIII dated 25-1-89 under the said sub-section directing that Shri Gopi Kishan Sharma, Son of Shri Ghanshyam Das Sharma, 13, Kalikrishna Tagor Street, Calcutta-7, be detained and kept in custody in the Presidency Jail, Alipore, Calcutta, with a view to preventing him from engaging in transporting smuggled goods.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed.

3. Now, therefore, in exercise of power conferred by clause (b) of sub-section (1) of section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, West Bengal Calcutta, within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/45/89-CUS. VIII]

आदेश

का.आ. 1678—भारत सरकार के संयुक्त सचिव ने, जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (2) के अधीन विशेष रूप से सशक्त किया गया है उक्त उपधारा के अधीन आदेश फा. सं. 673/49/89-सी.गु. VIII, तारीख 25-1-89 यह निदेश देते हुए जारी किया था कि श्री नजरूल शेख उर्फ बाजू, सुपुत्र श्री मूसा शेख, गांव नूननपाड़ा, डाकघर कलाबाग, पुलिस स्टेशन रघुनाथ गंज, जिला मुर्शिदाबाद, पश्चिम बंगाल को निष्काश करके प्रेजीडेंसी जेल, अलीपुर, कलकत्ता में अभिरक्षा में रखा जाए ताकि उस तस्करी के माल को छिपाने तथा रखने के कार्य में लिप्त रहने के अलावा तस्करी के माल को लाने-ले-जाने और तस्करी को माल का घंटा करने के कार्य में लिप्त रहने से रोका जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके;

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि पूर्वोक्त व्यक्ति इस आदेश के राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस महानिदेशक, पश्चिम-बंगाल, कलकत्ता के समक्ष हाजिर हो।

[फा. सं. 673/49/89-सी.गु.—VIII]

S.O. 1678.—Whereas the Joint Secretary to the Government of India specially empowered under sub-section (1) of section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/49/89-Cus. VIII dated 25-1-89 under the said sub-section directing that Shri Nazrul Sheikh @ Nazu, Son of Shri Musa Sheikh, Village Nutanpara, P. O. Kalabag, P. S. Raghunathgunj, District Murshidabad, West Bengal, be detained and kept in custody in the Presidency Jail, Alipore, Calcutta, with a view to preventing him from engaging in transporting smuggled goods and dealing in smuggled goods otherwise than by engaging in concealing and keeping smuggled goods.

3. Now, therefore, in exercise of powers conferred by that the aforesaid person has absconded or is concealing himself so that the order cannot be executed.

3. Now, therefore, in exercise of power conferred by clause (b) of sub-section (1) of section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, West Bengal, Calcutta, within 7 days of the publication of this order in the official Gazette.

[F. No. 673/49/89 CUS. VIII]

का.आ. 1679:—भारत सरकार के संयुक्त सचिव, जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशेष रूप से सशक्त किया गया है, उक्त उपधारा के अधीन आदेश फा.सं. 673/50/89-सी.शु.-VIII तारीख 25-1-89 यह निदेश देते हुए जारी किया था कि श्री रईसुद्दीन शेख, सुपुत्र श्री कालू शख, गांव हतिबांधा डाकखाना-कालाबाग, जिला-मुर्शीदाबाद पश्चिम बंगाल को निरुद्ध करके प्रेजीडेंसी जेल, अलिपुर अभिरक्षा में रखा जाए ताकि उसे तस्करी के माल को छिपाने और तस्करी के माल के रखने के कार्य में लिप्त रहने के अलावा, तस्करी के माल को लाने-ले-जाने तथा तस्करी के माल का धंधा करने में लिप्त रहने से रोका जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके, और

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निदेश देती है कि पूर्वोक्त व्यक्ति इस आदेश के राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस महानिदेशक पश्चिम बंगाल कलकत्ता के समक्ष हाजिर हो।

[फा.सं. 673/50/89-सी.शु.-VIII]
कुलदीप सिंह, अवर सचिव

S.O. 1679.—Whereas the Joint Secretary to the Government of India specially empowered under sub-section (1) of section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F.No. 673/50/89-Cus. VIII dated 25-1-89 under the said sub-section directing that Shri Raisuiddin Sheikh, Son of Shri Kalu Seigh, Village Hatibandha, P.O. Kalabag, District Murshidabad, West Bengal, be detained and kept in custody in the Presidency Jail, Alipore, Calcutta, with a view to preventing him from engaging in transporting smuggled goods and dealing in smuggled goods otherwise than by engaging in concealing and keeping smuggled goods.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed.

3. Now, therefore, in exercise of power conferred by clause (b) of sub-section (1) of section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Director General of Police West Bengal, Calcutta, within 7 days of the publication of this order in the official Gazette.

[F. No. 673/50/89-CUS. VIII]
KULDIP SINGH, Under Secy.

वाणिज्य मंत्रालय

आदेश

नई दिल्ली, 8 जुलाई, 1989

का.आ. 1680:—निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1964 के नियम 11 के उप नियम 2 की अपेक्षानुसार भारत के निर्यात व्यापार के विकास के लिए निर्यात से पूर्व इलायची को क्वालिटी नियंत्रण और निरीक्षण के अधीन लाने के लिए कतिपय प्रस्ताव भारत सरकार के वाणिज्य मंत्रालय के का.आ. सं. 3258 तारीख 29 अक्टूबर, 1988 के अधीन भारत के राजपत्र, भाग-2, खण्ड 3, उप खण्ड (ii) तारीख 5 नवम्बर, 1988 में प्रकाशित किए गए थे।

और उससे प्रभावित होने वाले सम्भाव्य सभी व्यक्तियों से इस आदेश के उक्त राजपत्र में प्रकाशन की तारीख से पैंतालीस दिन के भीतर आक्षेप और सुझाव मांगे गए थे;

और उक्त राजपत्र की प्रतियां जनता को 8 नवम्बर, 1988 को उपलब्ध करा दी गई थी।

और उक्त प्रारूप पर जनता से प्राप्त आक्षेपों तथा सुझावों पर केन्द्रीय सरकार ने विचार कर लिया है;

अतः, अब, केन्द्रीय सरकार निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, निर्यात निरीक्षण परिषद् से परामर्श करने के पश्चात् अपनी यह राय होने पर कि भारत के निर्यात व्यापार के लिए ऐसा करना आवश्यक तथा समीचीन है, एतद्द्वारा:—

- (1) अधिसूचित करती है कि इलायची निर्यात से पूर्व क्वालिटी नियंत्रण और निरीक्षण के अधीन होंगी;
- (2) इलायची निर्यात (निरीक्षण) नियम 1989 के अनुसार क्वालिटी नियंत्रण और निरीक्षण के प्रकार को ऐसे क्वालिटी नियंत्रण और निरीक्षण के प्रकार के रूप में विनिर्दिष्ट करती है जो निर्यात से पूर्व ऐसी इलायची को लागू होगा;
- (3) (क) आयातकर्ता देशों के राष्ट्रीय मानकों और ऐसे अन्तर्राष्ट्रीय मानकों को जो निर्यात निरीक्षण परिषद् द्वारा मान्यता प्राप्त हैं;
- (ख) निर्यातकर्ता और विदेशी क्रेता के बीच करार किए गए संविदात्मक विनिर्देशों को परन्तु यह तब जब कि एस विनिर्देश इस अ.देश में संलग्न अनुसूची में उपबर्णित न्यूनतम विनिर्देशों से निम्न न हों;
- (ग) इस मद के खंड (ख) के उपबन्धों के अधीन रहते हुए, इलायची श्रेणीकरण और चिह्नांकन नियम, 1962 के अधीन विनिर्दिष्ट श्रेणी पदनाम तथा क्वालिटी को;
- (घ) विदेशी क्रेता और निर्यातकर्ता के मध्य करार पाए गए संविदात्मक विनिर्देशों के न होने पर ऐसे न्यूनतम विनिर्देशों को जो आदेश से संलग्न अनुसूची में दिए गए हैं;

परन्तु जहाँ निर्यात की जाने वाली इलायची आयात कर्ता देशों में प्रवृत्ता खाद्य विधि यदि कोई हो, के अनुरूप हो वहाँ खण्ड (ख), (ग) और (घ) में उल्लिखित विनिर्देश ऐसे निर्यात को लागू नहीं होंगे; मान्यता देता।

- (4) इलायची के अन्तराष्ट्रीय व्यापार के अनुक्रम में निर्यात को तब तक प्रतिषिद्ध करती है जब तक कि ऐसी इलायची के पैकेजों या आधानों पर लगाया गया या चिपकाया गया केन्द्रीय सरकार द्वारा मान्यता प्राप्त चिन्ह या मुद्रा यह उपदर्शित नहीं करता हो कि वह इस पर लागू मानक विनिर्देशों के अनुरूप है या इसके साथ निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 के अधीन स्थापित किसी भी अभिकरण द्वारा या भारत सरकार के कृषि

विपणन सलाहकार द्वारा जारी श्रेणीकरण का इस आशय का प्रमाण पत्र न लगा हो कि ऐसी इलायची उपरोक्त कथित मानक विनिर्देशों के अनुरूप है और निर्यात योग्य है।

2. इस आदेश की कोई भी बात भावी क्रेताओं को जल, भू तथा वायु मार्ग द्वारा इलायची के ऐसे नमूनों के निर्यात को लागू नहीं होगी जिसका मूल्य पचास रुपए से अधिक नहीं हो।

3. इस आदेश में "इलायची" से भारत में उत्पादित इलायची (इलैटेरिया इलायची) अभिप्रेत है, भले ही वे, कैप्सूल, बीज या पाउडर के रूप में हों।

4. यह आदेश इसके राजपत्र में प्रकाशन की तारीख को प्रवृत्त होगा।

अनुसूची

इलायची के लिए विनिर्देश इलायची के बीजों तथा इलायची पाउडर :

1. सामान्य विशेषताएं:—

1. 1 इलायची भारत में उत्पादित इलैटेरिया इलायची के सुखाए हुए कैप्सूल होंगे। कैप्सूल तीन कोने वाले होंगे और धारिया या ग्लोब के आकार में होंगे जिनकी सतह धारीदार तथा देखने में चिकनी होगी।

1. 1 इलायची के बीज इलैटेरिया इलायची के छिलके उतार कर प्राप्त होगी।

1. 3 इलायची का पाउडर वह सामग्री होगी जो इलैटेरिया इलायची के कैप्सूलों से पृथक किए गए बीजों से प्राप्त हो।

1. 4 इलायची, इलायची के बीज तथा इलायची पाउडर फफूंदी, कीट उत्प्रेरण, किसी भी मिलावट, बाह्य गंध और संदूषण से मुक्त होगी।

कैप्सूलों पर कीट चिन्हों के कारण यह निष्कर्ष नहीं निकाला जाएगा कि कैप्सूल कीड़ों से उत्प्रेषित है।

1. 5 प्रत्येक श्रेणी के लिए श्रेणियां तथा सह्यताएं नीचे दी गई सारणी के अनुसार होगी।

2. 00 विशेषताओं की परिभाषाएं:—

2. 1 खाली तथा विकृत कैप्सूल:— ऐसे कैप्सूल जिनमें बीज न हो या कम भरे हुए हो जिनकी गणना नमूनों में से यदृच्छा चुने गए 100 कैप्सूल खोलकर की जाएगी।

2. 2 विकृत तथा सिकुड़े हुए कैप्सूल:— कैप्सूल जो पूरी तरह विकृत न हुए हो।

2. 3 काले तथा धब्बेदार:— कालों में ऐसे कैप्सूल होंगे जो कालापन लिए हुए हो या काले रंग के धब्बे वाले होंगे तथा धब्बेदार कैप्सूलों में ऐसे कैप्सूल सम्मिलित होंगे जो कोने पर से आधी लम्बाई से अधिक खुले हुए हों।

2. 4 बिना विलप किए हुए कैप्सूल:— कैप्सूल जिसमें से गोर्ष नहीं काटा हो।

2. 5 हल्के बीज:— इसमें भूरे या लाल रंग के बीज होंगे विकृत आं सिकुड़े हुए बीज।

2. 6 टूटे बीज भी हल्के बीजों में सम्मिलित होंगे।—

2. 7 बाह्य पदार्थ:— इसमें छिलकों के टुकड़ों, तिनके तथा अन्य बाह्य पदार्थ सम्मिलित हैं।

सारणी

क. एलपी हरित

श्रेणी	व्यापारिक नाम	रंग	छलनी का आकार	जी/एल में भार (न्यूनतम)	खाली तथा विकृत गणना के आधार पर % अधिकतम	विकृत तथा सिकुड़े हुए भार के आधार पर % अधिकतम	काले तथा धब्बे युक्त गणना के आधार पर % अधिकतम	तलीय तत्व % (न्यूनतम)	आद्रता % अधिकतम
यभिधान			(छिड़ का व्यास मि. मी.) जिनमें छाना जाए	(न्यूनतम)	विकृत गणना के आधार पर % अधिकतम	सिकुड़े हुए भार के आधार पर % अधिकतम	धब्बे युक्त गणना के आधार पर % अधिकतम		
ए. एस. ई. बी	इलायची अनिरिक्त मोटी	गहरी हरी या हल्की हरी या पीली		8.0	450	0.0	0.0	0.0	3
ए. ई. बी	इलायची मोटी	"		7.0	435	2.0	2.0	0.0	3
ए. बी	इलायची मोटी	"		6.5	425	2.0	2.0	0.0	3
ए. एम. बी	इलायची मध्यम मोटी	"		6.0	415	2.0	2.0	0.0	3
ए. एस.	इलायची उत्तम	"		5.0	385	3.0	5.0	0.0	3
ए. एस. 1	पोत लदान	"		4.0	350	5.0	7.0	10.0	3
ए. एस. 2	पोत लदान	"		4.0	320	7.0	9.0	12.0	3
ए. एस.	हल्की	"		3.5	260	—	—	15.0	3

अन्य विशेषताएं:— एलपी हरित इलायची रंग के अनुसार पृथक-पृथक पैक की जाएगी जैसे (क) हरी गहरी (ख) हल्की हरी (ग) पीली इलायची का सुसंगत रंग लेबलों पर उपदर्शित किए जाएंगे। इस शर्त के अधीन की कैप्सूलों का कम से कम 95 प्रतिशत किसी भी रंग समूह के अनुकूल होंगे। अगले निम्नतर आकार में 5 प्रतिशत की सह्यता अनिवार्य है।

(ख) कूर्म हरी

श्रेणी अभिधान	व्यापारिक रंग	रंग	छलनी का आकार जिन पर रखे जायेंगे (छिद्रों का व्यास मि.मी. में)	खाली तथा विकृत गणना के आधार प्रतिशत (अधिकतम)	बिना विकृत लगे गणना के आधार पर प्रतिशत (अधिकतम)	बिना पके हुए तथा विकृत भार के आधार पर प्रतिशत (अधिकतम)	घबरे तम गणना के आधार पर प्रतिशत	ग्राम तैलीय आद्रता नि. अंग में प्रति भारिता (न्यूनतम) (न्यूनतम)
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सी जी ई बी	अतिरिक्त मोटी	हरी से भूरी						
			8.0	450	0.0	0.0	0.0	39
सी जी बी	मोटी	"	7.5	435	2.0	3.0	0.0	39
सीजी 1	उच्चतम	"	6.5	415	3.0	5.0	0.0	3.9
सीजी 2	कूर्म हरी	"	6.0	385	5.0	10.0	0.0	3.9
सीजी 3	पोत खदान	"	5.0	350	10.0	15.0	10.0	3.9
सीजी 4	हल्की	"	3.5	280	---	---	10.5	3.9

अन्य विशेषताएँ: कूर्म हरी रंग के अनुसार पृथक-पृथक पैक की जाएगी, अर्थात् सी रंगों जी ई बी से सी जी 3 तक के श्रेणी अभिधान की वास्तविक (क) सुनहरे से हल्का श्रीम रंग का (ख) श्रीम रंग का (ग) हल्के हरे से हरे रंग का और (घ) भूरेपत से भूरा रंग का परन्तु इस प्रकार विभिन्न कैप्सूलों का कम से कम 95 प्रतिशत किसी भी रंग समूहों के अन्तर्गत होगा। अगले निम्नतर आकार के 5 प्रतिशत तक की सह्यता अनुज्ञेय होगी।

(ग) विरंजित या अर्धरंजित:---

श्रेणी अभिधान	व्यापारिक नाम	रंग	छलनी का आकार (छिद्र का व्यास मि.मी. में) जिनमें छाता गया हो	जी/एल में भार (न्यूनतम) के गणना आधार पर अधिकतम	खाली तथा विकृत गणना आधार पर % अधिकतम	बिना पके तथा विकृत भार के आधार पर % अधिकतम	टैलीय तत्व न्यूनतम	आद्रता % (अधिकतम)
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बी एल 1	---	पीला श्रीम रंग क. सफेदी की और	8.5	340	0.0	0.0	3	9
बीएल 2	---	"	7.0	340	0.0	0.0	3	9
बी एल 3	---	"	5.0	300	0.0	0.0	3	9

अन्य विशेषताएँ:— इलायची पृथक-पृथक इस आधार पर पैक की जाएगी, कि वह पूर्णतः विरंजित व अर्धरंजित है। दूसरे मामलों में, पैक कर्ता के अनुरोध पर बूतबलों पर कैप्सूल का रंग वर्णित किया जा सकेगा जैसे (क) पीला श्रीम रंग का या (ख) पीला सफेद "विशेष" शब्द बीएल 2 श्रेणियों पर चिपकाया जाएगा यदि कैप्सूलों के कम से कम 95 प्रतिशत पर उनकी धर्म मलह के उपर 50 प्रतिशत से अधिक पर कीट चिन्ह नहीं हो। अगले निम्नतर आकार पर 5 प्रतिशत की सह्यता अनुज्ञेय है।

(घ) विरजित करने योग्य सफेद इलायची

श्रेणी अभिधान	व्यापारिक नाम	रंग	छलनी का आकार (छिद्र का व्यास मि. में) जिममें छाना जाए	जी/एल में भार (न्यूनतम) के.ग्राम	खासी तथा विकृत के.ग्राम गणना के आधार पर % अधिकतम	बिना पके तथा मिकुड़े हुए भार के आधार पर % अधिकतम	काले तथा धब्बादार गणना के आधार पर % अधिकतम	तेलीय तत्व % न्यूनतम	आद्रता % (अधिकतम)
बी डब्ल्यू	2 मैसूर/मंगलूर विरजित करने योग्य इलायची "ए" बिना किल्प की हुई	सफेद हल्का हरा या हल्का सलेटी	7.0	460				3	9
बी डब्ल्यू	4 मैसूर/मंगलूर विरजित करने योग्य इलायची प्रपुंज बिना किल्प की हुई।	" "	4.3	435	2.0	0.0	—	3	9

अन्य विनियमताएं:— अगले निम्नस्तर पर 5 प्रतिशत सहायता अनुज्ञेय होगी।

(ङ) मिश्रित:—

श्रेणी अभिधान	व्यापारिक नाम	रंग	छलनी का आकार (छिद्र का व्यास मि. मी. में) जिम पर छाना जाए।	जी/एल में भार (न्यूनतम) के.ग्राम	खासी तथा विकृत के.ग्राम गणना में आधार पर % अधिकतम	बिना पके तथा मिकुड़े हुए भार के आधार पर % अधिकतम	काले तथा धब्बादार (न्यूनतम) गणना के आधार पर % अधिकतम	तेलीय तत्व % न्यूनतम	आद्रता % (अधिकतम)
एम ईबी	मिश्रित मोटी	अतिरिक्त	7.0	435	2.0	2.0	0.0	3	9
एम बी	मिश्रित मोटी	"	6.0	415	2.0	2.0	0.0	3	9
एम एस	मिश्रित उस्तम	"	5.0	385	3.0	5.0	0.0	3	9
एम एस	मिश्रित पोत लदाई I	"	4.0	350	5.0	7.0	10.0	3	9
एमएस2	मिश्रित पोत लदाई	"	4.0	320	7.0	9.0	12.0	3	9
एमएस	मिश्रित हल्की	"	3.5	250	—	—	15.0	3	9

अन्य विनियमताएं:— अगले निम्नस्तर आकार के 5 प्रतिशत सहायता अनुज्ञेय है।

(च) इलायची बीज

श्रेणी अभिधान	व्यापारिक नाम	बाह्य पदार्थ भार के आधार पर प्रतिशत (अधिकतम)	हल्के बीज भार के आधार पर प्रतिशत (अधिकतम)	ग्राम /लीटर में भार (न्यूनतम)	तैलीय अर्लैक्मन् न्यूनतम	आद्रता अधिकतम %
सीएम 1	प्राइम	1.0	3.0	675	3	9
सीएम 2	पोतपादान	2.0	5.0	660	3	9
सीएम 3	भग्न	10.0	--	--	3	9

(छ) इलायची पाउडर

श्रेणी अभिधान :	आद्रता भार के अनुसार तैलीय अर्लैक्मन् प्रतिशत (अधिकतम) (न्यूनतम)	प्रतिशत	कुल भार भार के आधार पर (अधिकतम)	क्षुब्धशील अम्लमस क भार प्रतिशत	हाईड्रोनोरिक के अधुनकीय के अनुसार (अधिकतम)
मानक	15.0	3	3.0	3.0	

अन्य विशेषताएँ :--यह मोटी कणिकाओं से युक्त होगी और इतनी बारीक पिसी होगी कि ये 500 माईक्रो छलनी से संपूर्ण छनकर निकल जाएँ।

[फाईल सं. 6/12/88 ईप्र(ई एण्ड ई-पी)]

MINISTRY OF COMMERCE

ORDER

New Delhi, the 8th July, 1989

S.O. 1680.—Whereas for the development of the export trade of India, certain proposals for subjecting Cardamom to quality control and inspection prior to export were published as required by sub-rule (2) of rule 11 of the Export (Quality Control and Inspection) Rules, 1964, in the Gazette of India, Part-II, Section 3 Sub-section (ii) dated the 5th November, 1988, under the Order of the Government of India in the Ministry of Commerce No. S.O. 3258, dated the 29th October, 1988 ;

And whereas the objections and suggestions were invited from all persons likely to be affected thereby within a period of forty-five days from the date of publication of the said Order in the said Gazette ;

And whereas the copies of the said Gazette were made available to the public on the 8th November, 1988 ;

And whereas the objections and suggestions received from the public on the said draft have been considered by the Central Government ;

Now, therefore, in exercise of the powers conferred by section 6 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government, after consulting the Export Inspection Council, being of opinion, that it is necessary and expedient so to do for development of the export trade of India, hereby,

(1) notifies that Cardamom shall be subject to quality control and inspection prior to export ;

(2) specifies the type of quality control and inspection in accordance with the export of Cardamom (Inspection) Rules, 1989, as the type of quality control and inspection which shall be applied to such Cardamom prior to export ;

(3) recognises,—

(a) the national standards of importing countries and such international standards as are recognised by the Export Inspection Council ;

(b) the contractual specifications agreed to between the foreign buyer and the exporter, provided that such specifications are not below the minimum specifications set out in the Schedule appended to this order ,

(c) subject to the provisions of clause (b) of this item, the grade designation and the quality specified under the Cardamom Grading and Marketing Rules 1962 ;

(d) in the absence of contractual specifications agreed to between the foreign buyer and the exporter, the minimum specifications set out in the Schedule appended to this order ;

Provided that where the Cardamom to be exported conforms to the food laws, if any, in force in the importing country, the specifications mentioned in clauses (b), (c) and (d) shall not apply to such export.

(4) prohibits the export, in the course of international trade of Cardamom, unless a mark or seal recognised by the Central Government indicating that it conforms to the standard specifications applicable to it has been affixed or applied to packages or containers of such cardamom is accompanied by a certificate of Grade issued by the Agricultural Marketing Adviser to the Government of India or by any of the agencies established under section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963) to the effect that such Cardamom conforms to the aforesaid standard specifications and is exportworthy.

2. Nothing in this order shall apply to export by sea, land or air of samples of Cardamom, not exceeding in value rupees fifty, to prospective buyers.

3. In this order 'Cardamom' means Cardamom (Eleotaria Cardamomum) whether in the form of capsules, seeds or powder produced in India.

4. This order shall come into force on the date of its publication in the Official Gazette.

SCHEDULE

SPECIFICATIONS FOR CARDAMOM, CARDAMOM SEEDS AND CARDAMOM POWDER

1. General Characteristics

1.1 Cardamom shall be dried capsules of *Elettaria Cardamomum* grown in India. Capsules may be three-cornered having a ribbed appearance or global shape having ribbed or smooth appearance.

1.2 Cardamom seeds shall be obtained by decertication of dry seeds of *Elettaria cardamomum*.

1.3 Cardamom powder shall be the material obtained from the seeds separated from the capsules of *Elettaria cardamomum*.

1.4 Cardamom, cardamom seeds and cardamom powder shall be free from mould, insect infestation, any adulterant, musty odour and contamination. Thrip marks alone on the capsules shall not lead to the conclusion that the capsules have been infested with insect.

1.5 The grades and tolerances permitted against each grade shall be as in the table below.

2.0 Definition of Characteristics

2.1 Empty and malformed capsules : Capsules which have no seeds or are scantily filled with seeds as assessed by opening out 100 capsule selected at random from the sample.

2.2 Immature and shrivelled capsules : Capsules which are not fully developed.

2.3 Blacks and splits : The blacks will include capsules having visible blackish to black colour and the splits will include capsules which are open at corners for more than half the length.

2.4 Unclipped capsules : Capsules of which the tips have not been trimmed.

2.5 Light seeds : include seeds brown or red in colour, immature and shrivelled seeds.

2.6 Broken seeds include also light seeds.

2.7 Extraneous matter : includes calyx pieces, stalk bits and other foreign matter.

TABLE

(A) ALLEPPEY GREEN

Grade Designation	Trade Name	Colour	Size (diameter of hole in mm) of the sieve on which retained	Weight in G/L (min)	Empty & malformed % by count max.	Immature shrivelled % by wt. max.	Blacks & splits % by count max.	Oil content % (min)	Moisture % max.
ASEB	Special Extra Bold	Deep Green or Light Green or Yellow	8.0	450	0.0	0.0	0.0	3	9
AEB	Extra Bold	"	7.0	435	2.0	2.0	0.0	3	9
AB	Bold	"	6.5	425	2.0	2.0	0.0	3	9
AMB	Medium Bold	"	6.0	415	2.0	2.0	0.0	3	9
AS	Superior	"	5.0	385	3.0	5.0	0.0	3	9
AS1	Shipment	"	4.0	350	5.0	7.0	10.0	3	9
AS2	Shipment	"	4.0	320	7.0	9.0	12.0	3	9
AL	Light	"	3.5	260	..	..	15.0	3	9

OTHER CHARACTERISTICS : Alleppey Green Cardamom shall be packed separately according to the colour as (a) Deep Green, (b) Light Green, (c) Yellow. The rele-

vant colour shall be marked on the labels. At least 95 % of the capsules shall correspond to the colour so marked. Tolerance of next size(s) shall not exceed 5%.

(B) COORG GREEN

Grade designation	Trade Name	Colour	Size (diameter of hole in mm) of the sieve on which retained	Weight G/L (min)	Empty & malformed % by count max.	Immature shrivelled % by wt. max.	Blacks & splits % by count	Unclipped % by count max.	Oil content % (min)	Moisture
CGEB	Extra Bold	Green to Brown	8.0	450	0.0	0.0	0.0	0.0	3	9
CGB	Bold	"	7.5	435	2.0	3.0	0.0	0.0	3	9
CG1	Superior	"	6.5	415	3.0	5.0	0.0	3.0	3	9
CG2	Coorg green	"	6.0	385	5.0	10.0	0.0	3.0	3	9
CG3	Shipment	"	5.0	350	10.0	15.0	10.0	5.0	3	9
CG4	Light	"	3.5	280	00	00	15.0	00	3	9

OTHER CHARACTERISTICS : Coorg green cardamom shall be packed separately according to colour as (a) Golden to Light Greenish (b) Creamy (c) Light Greenish to Greenish and (d) Brownish to brown in respect of CGEB to CG-3 and the colour marked on the labels. At least 95 % of the capsules shall correspond to the colour groups so marked. Tolerance of next size(s) shall not exceed 5 %.

(C) BLEACHED HALF BLEACHED

Grade Designation	Trade Name	Colour	Size (diameter of hole in mm) of the sieve on which retained	Weight in G/L	Empty & malformed % by count max.	Immature & shrivelled % by wt. max.	Oil content % (min.)	Moisture % (max.)
BL1		Pale cream to white	8.5	340	0.0	0.0	3	9
BL2		..	7.0	340	0.0	0.0	3	9
BL3		..	5.0	300	0.0	0.0	3	9

OTHER CHARACTERISTICS : Cardamom shall be packed separately according to whether they are fully bleached or half bleached. In the latter case, the colour of the capsules may be indicated at the request of the packer on the labels as (a) Pale cream or (b) dull white. The

word 'Special' would be affixed to grades BL-1 and PL-2, if at least 95 % of the capsules do not have thrip marks over 50 % of the body surface. Tolerance of next size(s) shall not exceed 5 %.

(D) BLEACHABLE WHITE

Grade Designation	Trade Name	Colour	Size (diameter of hole in mm) of the sieve on which retained	Weight in G/L (min)	Empty & malformed capsules % by count max.	Immature & shrivelled % by wt. max.	Blacks & splits % by count max.	Oil content % (min)	Moisture content % (max.)
BW 2	Mysore/Mangalore Bleachable cardamom unclipped	White Light green or light grey	7.0	460	1.0	0.0	..	3	9
BW4	Mysore/Mangalore Bleachable bulk cardamom unclipped	..	4.3	435	2.0	0.0	..	3	9

OTHER CHARACTERISTICS : Tolerance of next sizes(s) shall not exceed 5 %.

(E) MIXED

Grade Designation	Trade Name	Colour	Size (diameter of hole in mm) of the sieve on which retained	Weight in G/L (min)	Empty & malformed capsules % by count max.	Immature & shrivelled % by wt. max.	Blacks & splits % by count max.	Oil content % (min)	Moisture % (max.)
MFB	Mixed Extra Bold	..	7.0	435	2.0	2.0	0.0	3	9
MB	Mixed Bold	..	6.0	415	2.0	2.0	0.0	3	9
MS	Mixed Superior	..	5.0	385	3.0	5.0	0.0	3	9
MS1	Mixed Shipment I	..	4.0	350	5.0	7.0	10.0	3	9
MS2	Mixed Shipment II	..	4.0	320	7.0	9.0	12.0	3	9
ML	Mixed Light	-	3.5	260	..	..	15.0	3	9

OTHER CHARACTERISTICS : Tolerance of next size(s) shall not exceed 5 %.

(F) CARDAMOM SEED

Grade Designation	Trade Name	Extraneous matter % by wt. max.	Light seeds % wt. max.	Weight in G/L min.	Oil content % min.	Moisture % max.
CS1	Pr.m.	1.0	3.0	675	3	9
CS2	Shipment	2.0	5.0	660	3	9
CS3	Broken	10.0	..	..	3	9

(G) CARDAMOM POWDER

Grade designation	Moisture % by wt. max.	Oil content min.	Total ash content % by wt. max.	Ash insoluble in dilute Hcl % by wt. max.
Standard	15.0	3	3.0	3.0

OTHER CHARACTERISTICS : It shall be free from coarse particles and ground to such a fineness that the whole of it passes through 500 micron sieve. [F. No. 6/12/88-EI&EP]

का.आ. 1681:--केन्द्रीय सरकार, निर्यात (स्वातिटो नियंत्रण और निरीक्षण), अधिनियम, 1963 (1963 का 22) की धारा 17 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, निम्नलिखित नियम बनाती है, अर्थात्:--

1. संक्षिप्त नाम और प्रारंभ:--इन नियमों का संक्षिप्त नाम हलायची निर्यात (स्वातिटो नियंत्रण और निरीक्षण) नियम, 1989 है।

(2) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

2. परिभाषाएं:--इन नियमों में जब तक कि संदर्भ से अन्यथा अपेक्षित न हो:--

(क) अधिनियम से निर्यात (स्वातिटो नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) अभिप्रेत है;

(ख) "अधिकरण" से केन्द्रीय सरकार द्वारा या भारत सरकार के कृषि विपणन सलाहकार द्वारा या परेषणाभार निरीक्षण के लिए उसके द्वारा प्राधिकृत किसी अन्य प्राधिकारी द्वारा अधिनियम की धारा 7 के अधीन मुम्बई, कलकत्ता, कोचीन, दिल्ली व मद्रास में परेषणाभार निरीक्षण के साथ-साथ उत्पादन प्रक्रिया के दौरान स्वातिटो नियंत्रण के अधीन प्रमाणीकरण के लिए स्थापित अधिकरणों में से कोई एक अधिकरण अभिप्रेत है;

(ग) "हलायची" से भारत में उत्पादित हलायची (हलैटेरिया हलायची) चाहे कपसूल, बीज या पाउडर अभिप्रेत है;

(घ) "परिपक्व" से अधिनियम की धारा 3 के अधीन स्थापित निर्यात निरीक्षण परिपक्व अभिप्रेत है।

3. स्वातिटो नियंत्रण और निरीक्षण:--निर्यात के लिए प्राशयित हलायची का निरीक्षण यह सुनिश्चित करने को दृष्टि से किया जाएगा कि हलायची या तो अधिनियम की धारा 6 के अधीन मान्य मानक विनिर्देशों के या निर्यात संधि में उल्लिखित श्रेणियों के अनुरूप हैं:--

(क) इन नियमों में विनिर्दिष्ट प्रक्रियाओं को अपनाते हुए, इन प्रयोजन के लिए मान्य विनिर्देशों के अनुसार तैयार उत्पादों के निरीक्षण और परीक्षण के आधार पर; या

(ख) यह सुनिश्चित करते हुए कि इन नियमों के उपाबंध में दिए गए नियंत्रण के स्तरों का पालन करते हुए, परिष्करण के विभिन्न प्रश्नों पर नियंत्रणों का प्रयोग करते हुए, परिष्करण के विभिन्न प्रश्नों पर नियंत्रणों का प्रयोग करते हुए उत्पन्न को परिष्कृत किया गया है।

4. निरीक्षण का आधार:--(1) हलायची का निरीक्षण यह देखने की दृष्टि से किया जाएगा कि वह अधिनियम की धारा 6 के अधीन केन्द्रीय सरकार द्वारा मान्यता प्राप्त विनिर्देशों के अनुरूप हैं और उस पर समुचित श्रेणी अधिधान लेबल लगाए गए हैं।

(2) हलायची का निर्यात करने का हस्तुक कोई व्यक्ति स्वास्थ्यकर परिपक्व में हलायची का परेषण इस ढंग से तैयार करेगा कि परेषण मान्यताप्राप्त श्रेणी विनिर्देशों में से किसी एक के अनुरूप है।

(3) उपनियम (2) में विनिर्दिष्ट रीति से हलायची तैयार करने के पश्चात् निर्यातकर्ता केन्द्र और निर्यातकर्ता के बीच किए गए करार के अनुसार पैक करेगा।

(4) श्रेणी-अधिधान-लेबलों का प्रयोग करने का हस्तुक निर्यातकर्ता ऐसे लेबलों की अपनी अपेक्षाएं अधिकरणों के निकटतम कार्यालय से प्राप्त करेगा।

(5) एक डिब्बे में केवल एक ही श्रेणी की हलायची को पैक किया जाएगा।

5. निरीक्षण की प्रक्रिया:--(1) हलायची का निर्यात करने का हस्तुक निर्यातकर्ता अधिकरण को या अधिकरण द्वारा इस निमित्त प्राधिकृत अधिकरण के किसी अधिकारी को निर्यात किए जाने को आशयित परेषण की विशिष्टता दर्शाते हुए आवेदन देगा।

(2) उपनियम (1) के अधीन आवेदन निर्यात के लिए लवान आरंभ करने की तारीख से कम से कम सात दिन पहले दिया जाएगा।

(3) उपनियम (2) में निर्दिष्ट आवेदन प्राप्त होने पर अधिकरण, निर्यात निरीक्षण परिपक्व द्वारा इस निमित्त समय-समय पर जारी किए गए अनुदेशों के अनुसार अपना यह समझान करने को दृष्टि से हलायची के परेषण का निरीक्षण करेगा कि परेषण का नियम 4 के अनुसार श्रेणीकरण किया गया है, उस पर लेबल लगाया गया है, और उसे पैक किया गया है। निर्यातकर्ता अधिकरण को ऐसा निरीक्षण कर सकने के लिए सभी आवश्यक सुविधाएं प्रदान करेगा।

(4) यदि निरीक्षण के पश्चात् अधिकरण का यह समाधान हो जाता है कि निर्यात की जाने वाली हलायची का परेषण नियम 4 में निर्दिष्ट विनिर्देशों की अपेक्षाओं का अनुपालन करता है, तो वह सूचना प्राप्त होने के सात दिन के भीतर यह घोषित करने वाला प्रमाण-पत्र जारी करेगा कि परेषण निर्यात योग्य है।

(5) यदि अधिकरण का समाधान इस प्रकार नहीं होता है तो वह सात दिन की उपरोक्त अवधि के भीतर, ऐसा प्रमाण-पत्र जारी करने से इंकार करेगा और ऐसी इंकार की सूचना उसके कारणों सहित लिखित रूप में निर्यातकर्ता को देगा।

(6) प्रमाणन के पत्राज्ञा भी अभिकरण को अभिरूढ़न के दौरान, भंडारण के किसी स्थान पर या उसके वास्तविक पोत लदान से पूर्व पत्तों पर, परेषण की क्वालिटी पुनः निर्धारित करने का अधिकार होगा।

(7) यदि इन प्रक्रमों में से किसी प्रक्रम पर यह पाया जाता है कि परेषण मानक विनिर्देशों के अनुरूप नहीं है तो सूचना जारी किया गया प्रमाण-पत्र वापिस ले लिया जाएगा।

6. निरीक्षण का स्थान :—इन नियमों के प्रयोजन के लिए निरीक्षण निधिकर्ता के ऐसे परिसरों पर किया जाएगा जहाँ निरीक्षण के लिए मानक प्रस्तुत किए जाएंगे परन्तु यह कि वहाँ निरीक्षण के लिए पर्याप्त सुविधाएँ विद्यमान हों।

7. निरीक्षण फीस :—न्यूनतम 50 रुपए प्रति परेषण के अधीन रहने हुए, इन नियमों के अंतर्गत नियतिकर्ता द्वारा अभिकरण को परेषण-वार निरीक्षण और उत्पादन की प्रक्रिया के दौरान क्वालिटी नियंत्रण के लिए क्रमशः प्रति परेषण पोत पर्यन्त निःशुल्क मूल्य के 0.4 प्रतिशत तथा 0.2 प्रतिशत की दर से फीस संदाय की जाएगी।

टिप्पणी :—नियतिकर्ता द्वारा देय प्रत्येक परेषण के लिए निरीक्षण फीस निकटतम रूप में परिवर्तित कर दी जाएगी और इस प्रयोजन के लिए जहाँ ऐसी राशि रूप में भाग में हो, और यदि ऐसा भाग 50 पैसे या उससे अधिक हो तो उसे बहाकर रूप में कर लिया जाएगा तथा यदि ऐसा भाग 50 पैसे से कम हो तो उसे छोड़ दिया जाएगा।

8. अपील :—(क) इन नियमों के उपाबंध के उप-विरा 2.2 के खंड (4) और (5) के अधीन अभिकरण द्वारा अनुमोदन देने से इंकार करने से या उक्त उपाबंध के विरा 5 के उप-विरा (4) के अधीन अनुमोदित यूनिटों की नियत योग्यता का या नियम 5 के उपनियम (5) के अधीन नियत योग्यता का प्रमाणपत्र जारी करने से इंकार करने से व्यथित कोई व्यक्ति ऐसे इंकार की सूचना प्राप्त होने के पंद्रह दिन के भीतर इस प्रयोजन के लिए केन्द्रीय सरकार द्वारा नियुक्त विशेषज्ञों के संबंधित पैनल को जिसमें कम से कम तीन और अधिक से अधिक मानक रखे होंगे, संयोजक को अपील कर सकेगा।

(ख) विशेषज्ञों के पैनल की कुल सदस्यता का कम से कम दो तिहाई ऐसे सदस्यों से मिलकर बनेगी जो व्यापार मंडल के सदस्य होंगे।

(ग) पैनल की गणपूर्ति तीन से होगी।

(घ) अपील प्राप्त होने के पंद्रह दिन के भीतर निपटा दी जाएगी।

उपाबंध

उत्पादन की प्रक्रिया के दौरान क्वालिटी नियंत्रण के लिए ऐसे नियंत्रण स्तर जो प्रसंस्करण यूनिटों द्वारा अपनाए जाएंगे।

क्वालिटी नियंत्रण :—केवल ऐसी संसाधन यूनिट ही जिन्हें अभिकरण द्वारा अनुमोदित किया गया हो, नियत के लिए हलायची का प्रसंस्करण करने के पात्र होंगे और ऐसा अनुमोदन पाने को प्रहित होने के लिए किसी यूनिट के पास निम्नलिखित न्यूनतम सुविधाएँ होनी चाहिए, अर्थात् :—

1. संसाधन यूनिट :—केवल ऐसी संसाधन यूनिट ही हलायची प्रसंस्कृत करेगी जिसे अभिकरण द्वारा अनुमोदित किया गया हो। नियत के लिए हलायची का प्रसंस्करण करने के लिए उपलब्ध न्यूनतम सुविधाओं को पर्याप्तता का न्याय निर्णीत करने के लिए संसाधन यूनिट अभिकरण द्वारा मूल्यांकित किए जाने के अध्वधीन होंगी। संसाधन यूनिट के पास तीन विनिर्दिष्ट की गई न्यूनतम सुविधाएँ होंगी :—

1.1 परिवेश और सन्निर्माण : (1) ऐसी यूनिटों का परिवेश जो प्रसंस्करणकर्ता के अनुगत नियंत्रण के अधीन है पृष्ठा होगा, जिसमें स्वच्छता संबंधी कोई समस्या खड़ी नहीं होगी।

(1) भवन संयोजनक रूप से रखे जाएंगे।

(2) कार्य कक्ष अच्छी हवा में रखे जाएंगे।

1.2 मशीनरी :—(1) मशीनरी और उपकरण की क्वालिटी ऐसी होगी कि उन्हें सफाई के लिए खोला जा सके।

(2) नियोजित किए गए संसाधन की किस्म उत्पाद की प्रकृति के अनुरूप होगी ताकि उत्पाद में हाकी तात्विक क्वालिटी बनाई रखी जा सके।

(3) संसाधन उपकरण स्वयं दक्षिण गजों विशेषतः तापमान और चिपचिपाहट देखने के लिए हाइड्रोथर्मोग्राफ के साथ फिट किए जाएंगे।

1.3 परिवहन सुविधाएँ :—(1) यह सुनिश्चित किया जाएगा कि पूर्व प्रसंस्कृत तथा परिवर्तित उत्पादों को पैक किए जाने वाले केन्द्रों या संसाधन यूनिटों, जैसा भी मामला हो, में पंक्तिबद्ध के पैकेजों में ही ले आया जाएगा।

1.4 निरीक्षण प्रक्रिया :—(1) संसाधन यूनिटों के निर्धारण के प्रयोजन के लिए नियतिकर्ता संसाधन यूनिटों के ब्योरे परिवद द्वारा विहित प्रोक्लार्मा में अभिकरण को लिखित रूप में देगा।

(2) ऐसी सूचना प्राप्त होने पर, अभिकरण द्वारा नाम निर्विष्ट अधिकारी यूनिटों में उपलब्ध प्रसंस्करण की सुविधाओं का न्याय निर्णयन करने के लिए संसाधन यूनिटों में जाएंगे।

(3) यदि यह पाया जाता है कि इन नियमों में यथा विनिर्दिष्ट न्यूनतम सुविधाएँ यूनिटों में उपलब्ध है तो अभिकरण यूनिट का अनुमोदन कर देगा और नियत के लिए हलायची का ऐसी यूनिटों में संसाधन करने के लिए प्रसंस्करणकर्ता को अनुज्ञात करेगा।

(4) यदि यह पाया जाता है कि यूनिटों में न्यूनतम सुविधाएँ उपलब्ध नहीं है तो प्रसंस्करणकर्ता को उन यूनिटों में नियत के लिए हलायची का प्रसंस्करण करना अनुज्ञात नहीं किया जाएगा।

(5) यहाँ यूनिट अनुमोदित नहीं है या जिसका अनुमोदन वापिस से लिया गया है ऐसी यूनिट का मानिक दोषों का सुधार करने के पश्चात् फिर से अनुमोदन प्राप्त करने के लिए नए गिरे से आवेदन कर सकेगा।

(6) यदि, किसी भी समय किसी कारण से हलायची को धारा 6 के अंतर्गत मान्य विनिर्देशों के अनुरूप बनाए रखने में कठिनाई आती है या यदि अभिकरण द्वारा ऐसे निर्देश दिया जाता है, तो अभिकरण को सूचना देकर नियत के लिए हलायची के प्रसंस्करण को निलम्बित कर दिया जाएगा।

(7) नियत के लिए हलायची प्रसंस्करण पुनः आरम्भ केवल तब किया जाएगा जब अभिकरण उसका लिखित अनुमोदन कर दे।

(8) संसाधन संक्रियाएँ यूनिट के अनुसूची कार्मिक के पर्यवेक्षणाधीन स्वास्थ्यकर दशाओं में की जाएगी।

(9) संसाधन संक्रियाओं की जब कभी आवश्यक समझा जाए, अभिकरण द्वारा नामनिर्दिष्ट अधिकारियों जांच की जा सकेगी।

2.0 पैककरण केन्द्र :—नियत के लिए हलायची को पैक करने के लिए केवल अभिकरण द्वारा अनुमोदित पैककरण केन्द्र का ही प्रयोग किया जाएगा।

2.1 नियत के लिए पैक की जानी वाली ऐसी हलायची की जिसका प्रसंस्करण अनुमोदित संसाधन यूनिटों में ही हुआ है पैक करने के लिए अनुमोदित पैककरण केन्द्रों का ही प्रयोग किया जाएगा। किसी पैक करण केन्द्र के पास अनुमोदन प्राप्त करने के लिए निम्नलिखित सूचनाएँ होनी चाहिए, अर्थात् :—

2.1.1 परिवेश, संनिर्माण और अभिव्यक्ति—(1) भवन स्थाई अथवा अस्थायी संनिर्माण का होगा तथा अच्छी दशा में रखा जाएगा।

(2) ऐसे परिवेश के आसपास में जो प्रसंस्करणकर्ता के वस्तुगत नियंत्रण के अधीन है किसी प्रकार का ऐसा दमन या पशु भ्रष्ट, कृष्ट का क्रूर नहीं होगा जो किसी भी प्रकार की सफाई की समस्याओं को उत्पन्न कर सकता है।

(3) कार्यकरण परिणामों को संदूषण के किसी भी जोखिम से बचाने के लिए अच्छी दशा में रखा जाएगा।

2.1.2 पैकिंग क्षेत्र—(1) पैकिंग कक्षाओं में कीटाणुनाशकों, कृतकों, पक्षियों और इसी प्रकार के कीटों के प्रवेश के विरुद्ध संरक्षण के उपाय किए जाएंगे।

(2) सभी कार्यकरण क्षेत्रों में पर्याप्त प्रकाश व्यवस्था होगी।

(3) हलायची के भण्डारण के लिए प्रयोग में लाए जाने वाले वाले क्षेत्र या कक्ष ऐसे क्षेत्रों और कक्षाओं से पृथक् और सुविधायी होंगे जिनका प्रयोग अन्य सामग्री के लिए किया जाता है।

(4) पैकिंग संक्रियाओं के दौरान कार्यकरण क्षेत्र में से अपशिष्ट सामग्री बारबार हटाई जाएगी।

(5) सभी बर्तन, ट्रे और मेज का सतह जो हलायची के संपर्क में आते हैं प्रयोग किए जाने के पूर्व, उसके पश्चात् और प्रयोग के अन्तरालों के दौरान जितनी बार आवश्यक हो साफ की जाएंगे।

(6) क्षेत्रों को धरने के लिए प्रयुक्त ट्रे, कटोरे और बर्तन जैसे सभी छोटे पात्र काष्ठ से भिन्न संभरण सामग्री से बने होंगे तथा उनकी सतहें चिकनी और चमकीली होंगी।

(7) पैकिंग संक्रियाओं के दौरान कार्यकरण क्षेत्रों से अपशिष्ट सामग्री बारबार हटाई जाएगी।

(8) पैककरण/भराई कक्ष के प्रवेश द्वार पर हाथ धोने की सुविधा जैसे हाथ धोने के पात्र तथा साबुन की सुविधा होगी।

2.1.3 प्रसाधन सुविधाएं :—सफाई संबंधी पर्याप्त प्रसाधन सुविधाओं का प्रबंध किया जाएगा। प्रसाधन स्थलों में साबुन तथा पर्याप्त पानी का प्रबंध किया जाएगा।

2.1.4 कामियों का स्वास्थ्य और स्वच्छता :—(1) प्रबंध मंडल यह सुनिश्चित करने का ध्यान रखेगा कि किसी भी ऐसे व्यक्ति की जिसके बारे में यह जानकारी हो कि वह संवारी रोग से पीड़ित है पैकिंग के किसी भी क्षेत्र में काम करने की अनुमति न दी जाए।

(2) पैकिंग क्षेत्र में कार्य करने वाले सभी व्यक्ति इयूटी पर रहते हुए समय अपनी अत्यधिक सफाई रखेंगे।

(3) कार्यकर्ता प्रत्येक अनुपस्थिति के पश्चात् पैकिंग कक्ष में प्रवेश करने से पूर्व अपने हाथ धोएंगे।

(4) पैकिंग कक्ष में किसी रूप से नम्बाकू का खाना, धूकना और उसका प्रयोग करना प्रतिबन्ध होगा।

(5) पैकिंग कक्ष में लंन के डिब्बे नहीं रखे जाएंगे।

(6) प्रबंध मण्डल भराई और पैकिंग कक्ष में कार्य कर रहे कर्मचारियों को स्वच्छ वस्त्र और शिरोभूषण देगा।

2.2 पैककरण केन्द्रों का अनुमोदन :—(1) निर्यात करने के लिए हलायची को पैक करने का इच्छुक प्रसंस्करणकर्ता ऐसा करने के अपने आग्रह को सूचना लिखित रूप में अधिकरण द्वारा इस निमित्त विहित प्रोफार्मा में देगा।

(2) ऐसी सूचना प्राप्त होने पर अधिकरण के अधिकारी पैककरण केन्द्र में यह देखने के लिए जाएंगे कि केन्द्र में प्रसंस्करण के लिए सुविधाएं उपलब्ध हैं।

(3) यदि ऐसा पाया जाता है कि पैकिंग केन्द्र में न्यूनतम विहित सुविधाएं उपलब्ध हैं तो केन्द्र को निर्यात के लिए हलायची को पैक करने के लिए अनुमोदन कर दिया जाएगा।

(4) यदि ऐसा पाया जाता है कि पैकिंग केन्द्र में न्यूनतम विहित सुविधाएं उपलब्ध नहीं हैं तो उसे अनुमोदन नहीं किया जाएगा।

(5) पैकिंग केन्द्र को दिया गया अनुमोदन कम दो साल की अवधि सूचना देने के पश्चात् निम्नलिखित कारणों से वापिस ले लिया जाएगा। अर्थात्—

(i) यदि उपस्कर और मशीनरी काम करने की इच्छा दश, में में न हों।

(ii) यदि केन्द्र की गंदाई संबंधी और स्वास्थ्यकार दशाएं संतोषजनक न हों।

(iii) यदि प्रसंस्करणकर्ता ने इन नियमों के उपबंधों का अतिक्रमण किया है या जानबूझकर अतिक्रमण करने का प्रयत्न किया है।

(6) जहां किसी पैकिंग केन्द्र में संबंधित अनुमोदन वापिस ले गया है वहां यह ऐसे केन्द्र का सभी दोषों को सुधारने के पश्चात् फिर से अनुमोदन प्राप्त करने के लिए नए सिरे से अधिकरण को आवेदन देगेंगे।

(7) यदि पैकिंग केन्द्र की किसी समय किसी कारण से उप-वैरा 2.1 में विनिर्दिष्ट अपेक्षाओं की अनुपपत्ता बनाए रखने में कोई कठिनाई हो या यदि अधिकरण द्वारा ऐसा निर्देश दिया गया हो, तो अधिकरण को सूचित करते हुए निर्यात के लिए हलायची का पैकिंग को निर्वहिन कर दिया जाएगा।

(8) निर्यात के लिए हलायची की पैकिंग का पुनः आरंभ केवल तभी किया जाएगा कि जब उसे निश्चित रूप में अधिकरण द्वारा अनुमोदन कर दिया जाएगा।

2.3 हलायची का पैककरण और भराई :—(1) निर्यात के लिए हलायची पैक करने के इच्छुक निर्यातकर्ता इन नियमों के अनुसार हलायची तैयार करने के पश्चात् केला और विक्रेता के बीच करार के अनुसार पैक करेगा।

(2) श्रेणी अभिधान लेबलों का प्रयोग करने का इच्छुक निर्यातकर्ता ऐसे लेबलों की ओरिएंट अधिकरण के निकटतम कार्यालय से अभिप्राप्त करेगा।

(3) एक पैकेज में केवल एक ही श्रेणी की हलायची को पैक किया जाएगा।

3. संयुक्त यूनिट :—(1) किसी संयुक्त हलायची के कारखाने में जिसमें निर्यात के लिए हलायची का संसाधन करने और पैक करने दोनों की सुविधाएं हैं अनुमोदन प्राप्त करने के लिए संसाधन यूनिट तथा पैकिंग केन्द्र की निर्धारित सुविधाएं होनी चाहिए। ऐसी यूनिटों के लिए एक संयुक्त अनुमोदन पर्याप्त होगा।

4. अभिलेखों का रखा जाना :—हलायची के प्रसंस्करण पर प्रभावी नियंत्रण सुनिश्चित करने के लिए प्रसंस्करणकर्ता संबंधित परिणामों पर आवश्यक अभिलेख या रजिस्टर रखेगा और/या अधिकरण के अधिकारियों को निरीक्षण के लिए जब कभी अपेक्षा की जाए उपलब्ध कराए जाएंगे।

5. निरीक्षण की प्रक्रिया :—(1) हलायची के परेषण का निर्यात करने का इच्छुक निर्यातकर्ता इस निमित्त विहित प्रोफार्मा में

में अभिकरण की निम्नलिखित का ये सुचना देगा और ऐसी सूचना के साथ इस आदेश का प्रयोग पत्र में देगा कि इलायची के परेषण का अभिकरण द्वारा इस संबंध में यथा विधि उत्पादन के दौरान, क्वालिटी नियंत्रण उपायों के स्तरों को अनुरोध है, प्रसंस्करण किया गया है।

(2) इलायची के इन मामलों में प्रयोगशाला परीक्षण भंडारण न हो ऐसे सूचना लवार्टी के लिए प्रमाण पत्र की प्राप्ति की प्रति की अपेक्षित तारीख से कम से कम तीन कार्य दिवस पूर्व अभिकरण को दी जाएगी और प्रयोगशाला भंडारण होने पर पांच कार्य दिवस पूर्व दी जाएगी।

(3) ऐसी सूचना प्राप्त होने पर यदि अभिकरण का समाधान हो जाता है तो निर्यात किए जाने वाला परेषण विनिर्दिष्ट मानकों के अनुरूप है तो निर्यातकर्ता को, परेषणों को निर्यात योग्य घोषित करते हुए, प्रमाण पत्र जारी करेगा।

(4) जब अभिकरण का इस प्रकार का समाधान नहीं होता है तो वह ऐसे प्रमाणपत्र जारी करने से इंकार कर देगा और ऐसे इंकार किए जाने की सूचना उसके कारणों सहित लिखित रूप में निर्यातकर्ता को देगा।

(5) निरीक्षण के प्रयोजन के लिए अभिकरण द्वारा नाम निश्चित अधिकारी की सुसंगत अधिकारों और ऐसे परिदृश्यों तक पहुंच होगी जहां इलायची का संग्रहण पैककरण और भंडारण किया जाता है।

(6) प्रमाणन के पश्चात् भी अभिकरण को परेषण की क्वालिटी भण्डारण के किसी स्थान पर, अभिकरण के दौरान या पत्तों पर उसके अनुरूप; लवार्टी से पूर्व पुनः निरीक्षण करने का अधिकार होगा।

(7) यदि इनमें से किसी भी प्रक्रम पर यह पाया जाता है कि परेषण मानक विनिर्दिष्ट के अनुरूप नहीं है तो मूल रूप जारी किया गया निरीक्षण प्रमाणपत्र वापिस ले लिया जाएगा।

[काइल सं. 6(12)/88-ई आई एंड ई पी पी]

S.O. 1681.—In exercise of the powers conferred by section 17 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government hereby makes the following rules, namely :—

1. Short title and commencement.—(1) These rules may be called the Export of Cardamom (Inspection) Rules, 1989.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.—In these rules, unless the context otherwise requires,—

(a) "Act" means the Export (Quality Control and Inspection) Act, 1963 (22 of 1963);

(b) "agency" means any of the Export Inspection Agencies established by the Central Government at Bombay, Calcutta, Cochin, Delhi and Madras under section 7 of the Act for certification under in process quality control as well as consignmentwise inspection or the Agricultural Marketing Adviser to the Government of India or any other officer authorised by him for consignmentwise inspection;

(c) "cardamom" means cardamom (*Eleotaria cardamomum*) whether capsules seeds or powder produced in India;

(d) "Council" means the Export Inspection Council established under section 3 of the Act.

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3. Quality Control and Inspection.—The inspection of cardamom intended for export shall be carried out with a view to ensure that cardamom either conforms to the standard specifications recognised under section 6 of the Act or to the requirements stipulated in the export contract,

(a) on the basis of inspection and testing of finished products as per specifications recognised for this purpose by adopting the procedure specified in these rules; or

(b) by ensuring that the product has been processed by exercising the controls at different stages of processing by following the levels of controls as in the Annexure to these rules.

4. Basis of Inspection.—(1) Inspection of cardamom shall be carried out with a view to seeing that the same conforms to the specifications recognised by the Central Government under section 6 of the Act and that the proper grade designation labels have been affixed.

(2) Any person desiring to export cardamom shall prepare a consignment of cardamom in hygienic premises so as to make the consignment conform to any one of the recognised grade specifications.

(3) After preparing the cardamom in the manner specified in sub-rule (2), the exporter shall pack the same as agreed to between the buyer and the exporter.

(4) Exporters intending to use grade designation labels shall obtain their requirements of such labels from the nearest office of the agency.

(5) Cardamom of only one grade shall be packed in a container.

5. Procedure for inspection.—(1) Any exporter intending to export cardamom shall submit an application to the agency, or an officer of the agency authorised in this behalf by the agency, giving particulars of the consignment intended to be exported.

(2) An application under sub-rule (1) shall be made not less than seven days before the date of commencement of loading for export.

(3) On receipt of the application referred to in sub-rule (2), the agency shall inspect the consignment of cardamom as per the instructions issued by the Export Inspection Council in this behalf from time to time, with a view to satisfying itself that the consignment has been graded, labelled and packed in accordance with rule 4. The exporter shall provide all necessary facilities to the agency to enable it to carry out such inspection.

(4) If, after inspection, the agency is satisfied that the consignment of cardamom to be exported complies with the requirements of the specifications referred to in rule 4, it shall within seven days of the receipt of intimation issue a certificate declaring the consignment as exportworthy.

(5) When the agency is not so satisfied, it shall, within the said period of seven days refuse to issue such certificate and communicate such refusal to the exporter in writing along with the reasons therefor.

(6) Subsequent to certification the agency shall have the right to reassess the quality of the consignment at any place of storage, in transit, or at the ports before its actual shipment.

(7) In the event of the consignment being found not conforming to the standard specifications at any of these stages, the certificate of inspection originally issued shall be withdrawn.

6. Place of Inspection.—Inspection for the purpose of these rules shall be carried out at the premises of the exporter where the goods are offered for inspection, provided that adequate facilities exist therein for inspection.

7. Inspection fee—A fee at the rate of 0.4% and 0.2% of the f.o.b. value of the consignment subject to a minimum of Rs. 50 per consignment shall be paid to the agency as inspection fee for consignmentwise inspection and in process quality control respectively under these rules.

Note.—The amount of inspection fee for each consignment payable by the exporter shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee, then, if such part is fifty paise or more, it shall be increased to one rupee and if such part is less than fifty paise, it shall be ignored.

8. Appeal—(a) Any person aggrieved by the refusal of the agency to accord approval for his unit under clauses (4) and (5) of sub-paragraph 2.2 of the Annexure to these rules or to issue certificate of exportworthiness to the approved units under sub-paragraph (4) of paragraph 5 of the said Annexure or to issue a certificate of exportworthiness under sub-rule (5) of rule 5 may, within fifteen days of receipt of the communication of such refusal by it, prefer an appeal to the convener of the concerned Panel of Exports consisting of not less than three, but not more than seven members appointed for the purpose by the Central Government.

(b) At least two-third of the total membership of the Panel of Exports shall consist of trade members.

(c) The quorum of the Panel shall be three.

(d) The appeal shall be disposed of within fifteen days from its receipt.

ANNEXURE

CONTROL LEVELS FOR INPROCESS QUALITY CONTROL TO BE ADOPTED BY THE PROCESSING UNITS

Quality Control—Only curing units approved by the agency shall be eligible for processing cardamom for export and a unit to qualify for such approval, shall have the following minimum facilities, namely :—

1. Curing units—The curing units approved by the agency only shall process cardamom for export. In order to adjudge the adequacy of the minimum facilities available to process cardamom for export, the curing units shall be subjected to an evaluation by the agency. A curing unit shall have the following minimum facilities.

1.1 Surroundings and construction—(1) The surroundings of units, which are under the physical control of the processor shall be such as not to pose any sanitary problems.

(2) The building shall be maintained satisfactorily.

(3) The working rooms shall be maintained in good repair.

1.2 Machinery—(1) Machinery and equipment shall be so designed that they can be dismantled to facilitate through cleaning.

(2) The type of curing employed shall be specific to the nature of the product so as to make the product maintain its intrinsic quality.

(3) The curing equipment shall be fitted with self-indicating gauges, preferably hydro-thermographs to show the temperature and humidity.

1.3 Transportation facilities—(1) It shall be ensured that pre-processed and finished products are transported to the curing units or, as the case may be packing centre only in polythene laminated packages.

1.4 Procedure for inspection—(1) For the purpose of assessment of curing units, the exporter shall inform the agency in writing, in the proforma prescribed by the Council the details of the curing units.

(2) On receipt of such information, the officer nominated by the agency shall visit the curing units in order to adjudge the facilities for curing available in the units.

(3) If the units are found to have the minimum facilities as specified in these rules, the agency shall approve the units and permit the processor to carry out curing of cardamom for export in such units.

(4) If the units are found not have the minimum facilities, the processor shall not be allowed to cure cardamom for export in those units.

(5) Where a unit has not been approved or its approval has been withdrawn the owner of such unit, may, after rectifying the defects, make fresh application to the agency for getting fresh approval.

(6) If, at any time, there is any difficulty in maintaining the conformity of the cardamom to the specifications recognised under section 6, if so directed by the agency, processing of cardamom for export shall be suspended under intimation to the agency.

(7) The processing of cardamom for export shall be resumed only after the same is approved by the agency in writing.

(8) The curing operations shall be carried out in hygienic conditions under the supervision of experienced personnel of the unit.

(9) The curing operations may be subjected to check by the officers nominated by the agency as often as found necessary.

2.0 Packing Centres—The packing centres approved by the agency only shall be used for packing cardamom for export.

2.1 The approved packing centres shall be utilized for packing cardamom for export which has been processed in approved curing units only. A packing centre to qualify for approval shall have the following minimum facilities, namely :—

2.1.1 Surroundings, construction and layout—(1) The building shall be of permanent/semi-permanent construction and kept in good repair.

(2) The surroundings which are under the physical control of the processor shall not have any swamps, dumps or animal housing nearby which might pose any sanitary problems.

(3) The working premises shall be kept in good repair to prevent any risk of infestation.

2.1.2 Packing areas—(1) Measures shall be adopted to protect against entry of insects, rodents, birds and the like into the packing rooms.

(2) All the working areas shall be well lighted.

(3) Areas or compartments used for the storage of cardamom shall be separate and distinct from those used for other material.

(4) Waste material shall be frequently removed from the working areas during packing operations.

(5) All the utensils, trays, and table surface which come in contact with cardamom shall be cleaned before, after and during intervals of use, as often as necessary.

(6) All small receptacles like trays, bowls and utensils used in filling areas shall be of non-corrosive materials other than wood, and shall also have smooth surface and be free from crevices.

(7) Rejected material shall be frequently removed from the working areas during packing operation.

(8) Hand washing facilities such as wash basin and soap shall be provided at the entrance to the packing/filling room.

2.1.3 Toilet facility—Adequate toilet facilities of sanitary type shall be provided. Soap and plentiful supply of water shall be provided at the toilets.

2.1.4 Personnel health and hygiene—(1) The management shall take care to ensure that no person known to be affected with communicable disease is permitted to work in any area of the packing centre.

(2) All person working in the packing area shall maintain a high degree of personal cleanliness while on duty.

(3) The workers shall wash their hands before entering the packing rooms after each absence.

(4) Chewing, spitting and use of tobacco in any form shall be prohibited in the packing rooms.

(5) Lunch boxes shall not be kept in the packing rooms.

(6) The management shall provide clean aprons and head gears to the employee working in the filling and packing rooms.

2.2 Approval of packing centres—(1) A processor intending to pack cardamom for export shall inform the agency in writing of his intention to do so, in the proforma prescribed by the agency in this behalf.

(2) On receipt of such information, the officers nominated by the agency shall visit the packing centre in order to adjudge the facilities for processing available in the centre.

(3) If the packing centre is found to have the minimum prescribed facilities, the centre shall be approved for the purposes of packing cardamom for export.

(4) If the packing centre is found not to have the minimum prescribed facilities, it shall not be approved.

(5) The approval so accorded shall be withdrawn in respect of the packing centre for the following reasons, after giving a notice of minimum period of two months, namely :—

- (i) if the equipment and machinery are not in good working condition ;
- (ii) if the sanitary and hygienic conditions of the centre are not satisfactory ;
- (iii) if the processor has violated or deliberately attempted to violate the provision of these rules.

(6) Where approval in relation to a packing centre has been withdrawn, the owner of such centre may, after rectifying the defects, make a fresh application to the agency for obtaining fresh approval.

(7) If at any time, there is any difficulty in maintaining the conformity of the packing centre to the requirements specified in sub-paragraph 2.1 or if directed by the agency, packing of cardamom for export shall be suspended under intimation to the agency.

(8) The packing of cardamom for export shall be resumed only after the same is approved by the agency in writing.

2.3 Filling and packing cardamom—(1) An exporter intending to pack cardamom for export shall, after preparing the cardamom in accordance with these rules, pack the same as per the agreement between the buyer and the seller.

(2) Exporters intending to use grade designation labels shall obtain their requirements of such labels from the nearest office of the agency.

(3) Cardamom of only one grade shall be packed in a package.

3. Composit unit—(1) A composit cardamom factory having facilities for both curing and packing of cardamom for export shall have the prescribed facilities of the curing units and the packing centre to be eligible for approval. For such units, a composite approval shall be sufficient.

4. Maintenance of records—Necessary records or registers shall be maintained by the processor at the respective premises in order to ensure effective control of the processing of cardamom and these shall be made available to the agency officers for inspection as and when required.

5. Procedure of inspection—(1) An exporter intending to export a consignment of cardamom shall give intimation the agency in writing in the proforma prescribed in this behalf and submit along with such intimation a declaration to the effect that the consignment of cardamom has been processed adopting the levels of in-process quality control measures as prescribed by the agency in this regard.

(2) Such intimation shall reach the agency office not less than three working days prior to the required date of receipt of certificate for shipments in the case of cardamom involving no laboratory tests and five working days when laboratory tests are involved.

(3) On receipt of such intimation, if the agency is satisfied that the consignment to be exported complies with the specified standards, it shall issue a certificate to the exporter declaring the consignment exportworthy.

(4) When the agency is not so satisfied, it shall refuse to issue such certificate and communicate such refusal in writing to the exporter along with the reasons therefor.

(5) For the purpose of inspection, the officer nominated by the agency shall have access to relevant records and premises where curing, packing and storage of cardamom are carried out.

(6) Subsequent to certification, the agency shall have the right to reassess the quality of the consignment at any place of storage, while in transit or at the ports before its actual shipment.

(7) In the event of the consignment being found not conforming to the standard specifications at any of these stages, the certificate of inspection originally issued shall be withdrawn.

[F. No. 6/12/88-EI&EP]

आदेश

का.आ. 1682 :—भारत के निर्यात व्यापार के विकास के लिए रखरू के सम्बन्ध में निर्यात से पूर्व क्वालिटी नियंत्रण और निरीक्षण करने के लिए कनिष्ठ प्रस्ताव निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1964 के नियम 11 के उपनियम (2) की अपेक्षासूचक भारत सरकार के वाणिज्य मंत्रालय के आदेश सं.का.आ. 3473 तारीख 26 नवम्बर, 1988 के अर्थात् भारत के राजपत्र भाग-2, खण्ड-1, उपखण्ड-(ii) तारीख 26 नवम्बर, 1988 में प्रकाशित किए गए थे।

उक्त आदेश के राजपत्र में प्रकाशन की तारीख से 45 दिनों के भीतर उनसे प्रभावित होने वाले सभी व्यक्तियों से आशेष तथा सुझाव मांगे गए थे;

और उक्त राजपत्र की प्रतियां जनता को 2 दिसम्बर, 1988 को उपलब्ध करा दी गई थी;

और उक्त प्रारूप प्रस्ताव पर जनता से प्राप्त आशेषों और सुझाव पर केन्द्रीय सरकार ने विचार कर लिया है ;

अतः अब, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए केन्द्रीय सरकार की निर्यात निरीक्षण परिषद से परामर्श करने के पश्चात् यह राज होने पर कि भारत के निर्यात व्यापार के विकास के लिए ऐसा करना आवश्यक तथा समीचीन है, भारत सरकार के वाणिज्य

मंत्रालय की अधिसूचना सं. का. भा. 1004 तारीख 23 मार्च, 1967 का अधिक्रमण करते हुए, इसके द्वारा :-

(1) यह अधिसूचित करती है कि रबड़ के नम्यनाल नियंत्रण से पूर्व क्वालिटी नियंत्रण और निरीक्षण के अधीन होंगे ,

(2) रबड़ के नम्यनालों के निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1989 के प्राप्ति के अनुसार क्वालिटी नियंत्रण और निरीक्षण के प्रकार को क्वालिटी नियंत्रण और निरीक्षण के उस प्रकार के रूप में विनिर्दिष्ट करती है जो निर्यात से पूर्व ऐसे रबड़ के नम्यनालों को लागू होगा ,

(3) ऐसे रबड़ के नम्यनालों के लिए मानक विनिर्देशों के रूप में मान्यता देती है ।

(i) राष्ट्रीय या अंतर्राष्ट्रीय नामक,

(ii) इस आदेश के उपाबंध II और उपाबंध-III में दिए गए न्यूनतम विनिर्देशों के अधीन रहते हुए संविदात्मक विनिर्देश,

(iii) निर्यात निरीक्षण परिषद द्वारा मान्यताप्राप्त अन्य निकायों के मानक,

(4) अंतर्राष्ट्रीय व्यापार के दौरान, ऐसे रबड़ के नम्यनालों के निर्यात को तब तक प्रतिषिद्ध करती है जब तक कि उसके प्रत्येक परीक्षण के साथ उक्त अधिनियम की धारा 7 के अधीन या मान्यताप्राप्त स्थापित अभिकरणों में से किसी एक द्वारा

निर्यात के लिए उत्तरी निरीक्षण प्रमाणपत्र न हो ।

3. इस आदेश की कोई भी बात भावी वेताओं को भू-मार्ग, जल मार्ग या वायु मार्ग द्वारा रबड़ के नम्यनाल के वास्तविक व्यापार नमूनों के निर्यात को लागू नहीं होगी, परन्तु प्रत्येक डिजाइन या विस्म के नमूनों की संख्या तीन से अधिक न हो या उनका मूल्य 500/- रुपए से अधिक न हो ।

4. इस आदेश में रबड़ नम्यनालों से इस आदेश के उपाबंध-II में उल्लिखित रबड़ नम्यनाल अधिप्रेत हैं जो बल्कलित रबड़ से बने हैं और बुने हुए फैब्रिक या कपास की डोरी, स्टेनलेस स्टील, संगणक धागा तथा रबड़ की संरक्षण पर गुनारी के साथ प्रबलता है और जो कम या उच्च दाब के अधीन सभी प्रकार के द्रवों के निस्सारण या कृष्ण प्रयोजनों के लिए प्रयुक्त किए जाते हैं ।

5. यह आदेश राजपत्र में प्रकाशन की तारीख को प्रवृत्त होगा ।

उपाबंध-I

1. जल प्रदाय नम्यनाल
2. जल चूषण नम्यनाल
3. वायु नम्यनाल
4. तेल प्रतिरोधी नम्यनाल
5. झलाई नम्यनाल
6. छिड़काव नम्यनाल
7. रेडिएटर नम्यनाल
8. रासायनिक नम्यनाल
9. भाप नम्यनाल
10. रेत प्रसंजन नम्यनाल
11. स्वचालित द्रवचालित ब्रेक नम्यनाल
12. अग्निशमन नम्यनाल
13. सीमेंट अभिपूरण नम्यनाल
14. गर्म जल नम्यनाल

15. वायुधान ईंधन रबड़ नम्यनाल
16. द्रवित पैट्रोलियम गैस नम्यनाल है
17. रेल निर्यात ब्रेक नम्यनाल
18. रेल जल भरण नम्यनाल

उपाबंध-II

रबड़ के नम्यनालों के लिए विनिर्देश

1. जल प्रदाय नम्यनाल
भा.मा. 444-1980 जल प्रदाय रबड़ नम्यनाल ।
2. जल चूषण नम्यनाल :
(क) भा.मा. 2482-1963 रबड़ के जल चूषण नम्यनाल सुझी जाती चाले ।
(ख) भा.मा. 3549-1983 रबड़ के जल चूषण तथा जल निस्सारण नम्यनाल जारी आसता चाले ।
3. वायु नम्यनाल
भा.मा. 446-1980 रबड़ वायु नम्यनाल ।
4. तेल प्रतिरोधी नम्यनाल :
(क) भा.मा. 655-1962 रबड़ के तेल तथा बिलायक प्रतिरोधी नम्यनाल
(ख) भा.मा. 2396-1981 रबड़ के ईंधन प्रदाय नम्यनाल
(ग) भा. मा. : 8189-1976 तेल चूषण तथा निस्सारण सेवा रबड़ नम्यनाल
(घ) भा.मा. 0733-1983 पैट्रोलियम उत्पाद प्रतिरोधी विद्युत शक्ति युक्त सबक और रेल टैंक रबड़ नम्यनाल
5. झलाई नम्यनाल :
भा. मा. 447-1980 झलाई के लिए रबड़ के नम्यनाल
6. छिड़काव नम्यनाल
भा.मा. 1677-1968 गुणे हुए फाड़े के प्रबलन सहित रबड़ के छिड़काव नम्यनाल
7. रेडिएटर नम्यनाल :
भा.मा. 2765-1962 रेडिएटर नम्यनाल
8. रासायनिक नम्यनाल :
भा. मा. 7654-1975 रसायनों के लिए नम्यनाल
9. स्टीम के लिए नम्यनाल :
भा.मा. 10655-1973 स्टीम के लिए नम्यनाल
10. बालू प्रसंजन नम्यनाल :
भा. मा. 5894-1980 बालू प्रसंजन रबड़ नम्यनाल
11. स्वचालित द्रवचालित ब्रेक नम्यनाल :
भा.मा. 7079-1979 स्वचालित द्रवचालित ब्रेक नम्यनाल
12. अग्निशमन नम्यनाल :
(क) भा.मा. 2410-1963 अग्नि सेवाओं के लिए रबड़ के चूषण नम्यनाल
(ख) भा.मा. 5132-1969 अग्नि सेवाओं के लिए नम्यनाल रील ट्यूब
(ग) भा.मा. 636-1979 अग्नि शमन नम्यनाल
13. गर्म जल नम्यनाल :
भा. मा. : 5821-1979 गर्म जल के रबड़ नम्यनाल

14. वायुयान ईंधन के लिए रबड़ नम्यताएं :

भा. मा. 5799-1982 विद्युत गति युक्त यात्रा ईंधन के लिए रबड़ नम्यताएं

15. शक्ति पेट्रोलियम गैस नम्यताएं :

भा. मा. 9573-1980 शक्ति पेट्रोलियम गैस के लिए रबड़ नम्यताएं

16. सीमेंट अभिपूरण नम्यताएं :

भा. मा. 5137-1982 सीमेंट अभिपूरण के लिए रबड़ के नम्यताएं

उपाबंध - III

क. रेल निर्वात बैंक नम्यताएं का विनिर्देश :

1. संनिर्माण

1.1 नम्यताएं या निम्नलिखित से निर्माण किया जाएगा।

1.1.1 रबड़ का अस्तरण:—रबड़ का अस्तरण मोटाई में एक समान, संकेन्द्रित तथा वायु फफोलों संरक्षता दशरों तथा अन्य सतही दोषों से मुक्त होगी।

1.1.2 प्रबन्धीकरण : प्रबन्धीकरण इस्पात के तार क्रोड सहित केन्वस के साथ होगा। समिल कुण्डली जस्सी इस्पात के फटोर तार की, जो बर्तार में परिमज्जित और जिसके सिरे संलग्न तार से सोल्डर तथा जिसकी अन्तिम तनन प्रबलता 55 कि. ग्रा./से. मी. 2 से कम नहीं बनी होगी।

1.1.3 रबड़ का आच्छाद : रबड़ के आच्छाद एक समान तथा वायु फफोलों, संरक्षता तथा सतही दोषों से मुक्त होंगे। आच्छाद की कपड़ा चिन्हित परिसज्जा की जाएगी और सम्पूर्ण को स्पेडकर समेकित तथा एकसार बलकनित किया जाएगा।

2. अपेक्षाएं : रबड़ के नम्यताएं निम्नलिखित अपेक्षाओं के अनुरूप होंगे।

2.1 विमाण तथा सह्यताएं

2.1.1 लम्बाई :—नम्यताओं की लम्बाई क्रेता द्वारा विनिर्दिष्ट के अनुसार होगी तथा किसी भी नम्यताओं की लम्बाई पर सह्यता \pm प्रतिशत होगी।

2.1.2 आन्तरिक व्यास:—नम्यताओं का आन्तरिक व्यास क्रेता द्वारा विनिर्दिष्ट के अनुसार होगा।

2.1.3 परिसज्जित नम्यताओं पर भौतिक परीक्षणों की अपेक्षाएं नम्यताओं के अस्तरण तथा आच्छाद के लिए प्रयुक्त रबड़ की तनन सामर्थ्य और टूटन का बोधोकरण निम्नानुसार होंगे :

परीक्षण	निम्नलिखित के लिए अपेक्षाएं	
	अस्तरण	आच्छाद
(क) तनन सामर्थ्य एम पी ए न्यूनतम	4.0	4.0
(ख) टूटन पर दीर्घाकरण प्रतिशत न्यूनतम	200	200

टिप्पण:—एम पी ए—10.2 कि. ग्रा. एकसे. मी. ²

2.1.4 त्वरित अवस्था परीक्षण : 72 घंटों की अवधि के लिए 70 ± 1 से. ग्रा. पर काल प्रभाव के पश्चात् नम्यताओं के अस्तरण तथा आच्छाद के लिए प्रयुक्त रबड़ काल प्रभाव से पहले प्राप्त तनन सामर्थ्य और तत्संबंधी मूल्य का टूटन पर दीर्घाकरण के लिए $+15$ — 10 प्रतिशत से अधिक भिन्न नहीं होगा।

2.2 भौतिक परीक्षण:—नम्यताओं को मोड़ना तार क्रोड के विस्थापन के या केन्वस अस्तरण के फटने के बिना निम्नलिखित श्रितियों तक हथों में

मोड़ा जाएगा। मोड़ना एक बार एक दिशा में और फिर विपरीत दिशा में किया जाना चाहिए।

(क) 685×51 मि.मी. तब तक मोड़ना जब तक कि सिरे छू न जाएं।

(ख) 560×51 मि.मी. तब तक मोड़ना जब तक कि सिरे 10.2 मि. मी. दूर हों।

(ग) 455×51 मि.मी. तब तक मोड़ना जब तक कि सिरे सामान्तर न हों।

2.3 निर्वात रखने की क्षमता का परीक्षण : नम्यताओं 600 मि.मी. व्यास वाले बेलनाकार टोटी से जुड़ा होगा और जो किसी बेलनाकार प्लग के साथ मूकन मिरा बंद किए जाने से 1640 घन. से. मीटर परिमाण के कक्ष के लिए लम्बाई में कम से कम 44 मि.मी. से कम नहीं होंगे जो टोंटों के साथ वाह्य विमात्रों में गरम तथा पूर्ण तबज्ज में 508 मि.मी. का निर्वात केम्बर गज पर एक घंटे में 7.6 मि.मी. से अधिक बूंदें अभिलिखित निर्वात की स्त्रोत से अलग नहीं होंगी। नम्यताओं क्लिप नहीं किया जाए या अन्यथा इस परीक्षण के लिए केम्बर टोटी या प्लग के साथ बंधा नहीं होगा।

2.4 संकुचन परीक्षण : जब नम्यताएं 508 मि.मी. निर्वात के अधीन हों, तब से घपनी मूल लम्बाई के, जब वे स्थिर दिशा में हो 5 प्रतिशत से अधिक संकुचित नहीं होंगी।

ख. रेल जल भरण नम्यताओं के लिए विनिर्देश

1. संनिर्माण

1.1 अस्तरण:—अस्तरण मोटाई में एक समान फफोलों, संरक्षता से मुक्त रबड़ संमिश्रण से बना होगा।

1.2 प्रबन्धीकरण:—प्रबन्धीकरण, क्रेता की अपेक्षाओं के अनुसार पेंचवार संनिर्माण के साथ बुने हुए फेब्रिक या धागे, गुंथा हुआ कपड़ा प्रबन्धीकरण द्वारा संनिर्माण किया जाएगा।

1.3 आच्छाद:—मुड़ी हुई नम्यताओं के आच्छाद जैसा अपेक्षित हो चिकने या मुरली की तरह होंगे। मुड़ों पर विनिर्माण नम्यताओं पर कपड़ा चिन्हित परिसज्जा लगी होगी। सम्पूर्ण को समेकित तथा एकसार बलकनित किया जाएगा।

2. अपेक्षाएं:—जल भरण नम्यताओं की विनिर्दिष्ट अपेक्षाओं के अनुरूप होंगे:—

2.1 विमाण और सह्यताएं

2.1.1 आन्तरिक व्यास:—नम्यताओं का आन्तरिक व्यास क्रेता द्वारा विनिर्दिष्ट किए गए अनुसार होगा।

2.1.2 लम्बाई:—नम्यताओं की लम्बाई क्रेता द्वारा विनिर्दिष्ट के अनुसार होगी और जो ± 1 प्रतिशत या ± 3 मि.मी. की जो भी अधिक हो, विनिर्दिष्ट लम्बाई पर सह्यताओं के अधीन होगी।

2.2 आसंजन:—आसंजन इस प्रकार का होगा कि (i) फेब्रिक और फेब्रिक (ii) फेब्रिक और आच्छादन के बीच पृथक्करण 3.6 कि. ग्रा. भार के अधीन 25 मि. मीटर प्रति मिनट से अधिक नहीं होगा।

2.3 मोड़ने का परीक्षण:—नम्यताओं का तार क्रोड के विस्थापन या केन्वस को आच्छादन की नुकसान के बिना निम्नलिखित अधिक डिग्री के अधीन हथों से मोड़ा जाएगा। 635 मि.मी. $\times 51$ जब तक कि सिरे सामान्तर न हों।

प्रणाली:—परीक्षण टुकड़ा संधियों से जोड़ा जाएगा और 22 मि.मी. तब के अभिहित नवी नम्यताओं के मामले में उन्हें 100° में मोड़ा जाएगा

नाकि फिटिंग नमूनांतर हो और फिटिंग पर नमूनाओं के दोनों विरों के बीच की दूरी न्यूनतम अर्धव्यास 1.5 प्रतिशत से दुगुनी हो ।

2.2 मि.मी. अतिरिक्त नली में ऊपर का नमूना नली सीधी हानव छोड़ दिया जाएगा ।

2.4 हाइड्रॉलिक परीक्षण---नमूना बिना कोई रिसाय और फटन क्षीणत किए बिना 5 मिनट तक 7 कि.ग्रा./से. मी.² आंतरिक जल दाब परीक्षण के अधीन होगा ।

[सं. फाईल 6(2)/88 ई आई एण्ड ई पी]

पाद टिप्पण.

का. भा. सं. 1004 तारीख 23-3-1967

ORDER

S.O. 1682.—Whereas for the development of the export trade of India, certain proposals for subjecting Rubber Hoses to quality control and inspection prior to export were published as required by sub-rule (2) of rule 11 of the Export (Quality Control and Inspection) Rules, 1964 in the Gazette of India Part-II Section 3 sub-section (ii) dated the 26th November, 1988 under the Order of the Government of India in the Ministry of Commerce S.O. No. 3473 dated the 26th November, 1988;

And whereas the objections and suggestions were invited from all persons likely to be affected thereby within 15 days of the publication of the said Order in the official Gazette;

And whereas the copies of the said Gazette were made available to the public on the 2nd December, 1988;

And whereas the objections and suggestions received from the public on the said draft proposal have been considered by the Central Government;

Now, therefore, the Central Government after consultation with the Export Inspection Council being of opinion that it is necessary and expedient so to do for the development of the export trade of India in exercise of the powers conferred by section 6 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963) and in supersession of the notification of the Government of India in the Ministry of Commerce No. S.O. 1004 dated the 23rd March, 1967, hereby;

(1) notify Rubber Hoses shall be subject to quality control and inspection prior to export;

(2) specify the type of quality control and inspection in accordance with the export Rubber Hoses (Quality Control and Inspection) Rules, 1989 as the type of quality control and inspection which shall be as applied to such Rubber Hoses, prior to export;

(3) recognises—

(i) National or International Standards.

(ii) Contractual specifications subject to minimum specifications as set out in Annexure-II and Annexure-III of this order;

(iii) Standard of other bodies recognised by Export Inspection Council;

as the standard specifications for such Rubber Hoses.

(4) prohibits the export in the course of international trade of such Rubber Hoses, unless every consignment thereof is accompanied by an inspection certificate for export issued by any one of the agencies established or recognised under section 7 of the said Act.

3. Nothing in this order shall apply to the export by land, sea or air of bonafide trade samples of rubber hoses

to the prospective buyers, provided the number of samples of each design or type do not exceed three in number or Rs. 500 in value.

4. In this order, "Rubber Hoses" shall mean any of the rubber hoses mentioned in Annexure-I to this order made from vulcanised rubber, reinforced with woven fabric or braids of cotton, stainless steel, synthetic yarn and woven over the rubber lining used for the purpose of discharge of suction of all types of fluids under high or low pressure.

5. This order shall come into force on the date of its publication in the official Gazette.

ANNEXURE-I

1. Water Delivery Hose
2. Water Suction Hose
3. Air Hose
4. Oil Resisting Hose
5. Welding Hose
6. Spray Hose
7. Radiator Hose
8. Chemical Hose
9. Steel Hose
10. Sand Blast Hose
11. Automotive Hydraulic Brake Hose
12. Fire Fighting Hose
13. Cement Grouting Hose
14. Hot Water Hose
15. Air Craft Fuelling Rubber Hose
16. Liquefied Petroleum Gas Hose
17. Railway Vacuum Brake Hose
18. Railway Water Food Hose.

ANNEXURE-II

Specification for Rubber Hoses

1. Water Delivery Hose :
IS : 444-1980 Rubber Water Hose
2. Water Suction Hose
(a) IS : 2482-1963 Water Suction Hose or Rubber Light Duty.
(b) IS : 3549-1983 Water Suction and Discharge Hose of Rubber—Heavy Duty
3. Air Hose :
IS : 446-1980 Rubber Air Hose
4. Oil Resisting Hose :
(a) IS : 635-1982 Oil and Solvent Resistant Hose of Rubber
(b) IS : 2396-1981 Rubber Hose for Fuel Dispensing
(c) IS : 8189-1976 Rubber Hose for Oil Suction and Discharge Services
(d) IS : 0733-1983 Electrically bonded road and fail tanker hose of rubber resistant to petroleum products.
5. Welding Hose :
IS : 447-1980 Rubber Hose for Welding
6. Spray Hose :
IS : 1667-1968 Agricultural Spray Hose or Rubber with braided textile reinforcement
7. Radiator Hose :
IS : 2765-1982 Radiator Hose

8. Chemical Hose :

IS : 7654-1975 Rubber Hose for Chemicals

9. Steam Hose :

IS : 10655-1983 Rubber Steam Hose

10. Sand Blast Hose :

IS : 5894-1980 Rubber Hose for Sand Blasting

11. Automotive Hydraulic Brake Hose :

IS : 7079-1979 Automotive Hydraulic Brake Hose

12. Fire Fighting Hose :

(a) IS : 2410-1963 Suction Hose of Rubber for Fire Service

(b) IS : 5132-1969 Hose reel tubing for fire services

(c) IS : 636-1979 Fire Fighting Hose

13. Hot Water Hose :

IS : 5821-1979 Hot Water Hose of Rubber

14. Aircraft Fueling Rubber Hose :

IS : 5799-1982 Electrically bonded aircraft fuelling rubber hose.

15. Liquefied Petroleum Gas Hose :

IS : 9573-1980 Rubber Hose for liquefied Petroleum Gas

16. Cement Grouting Hose :

IS : 5137-1982 Rubber Hose for Cement Grouting.

ANNEXURE—II

A. SPECIFICATION FOR RAILWAYS VACUUM BRAKE HOSE

1. Construction.—The hose shall be constructed of the following.

1.1 Rubber Lining.—The rubber lining shall be uniform in thickness, concentric and free from air blisters, porosity, Split and other surface defects.

1.2 Reinforcement.—The reinforcement shall be with canvas with a steel wire core. The helical coil shall be of tough galvanised steel wire, finished or square and with ends soldered to the adjacent wire and with an ultimate tensile strength of not less than 55 kg/cm².

1.3 Rubber Cover.—The rubber covers shall be uniform and free from air blisters, porosity and surface defects. The cover shall be cloth-marked finish and the whole shall be consolidated by wapping and uniformly vulcanised.

2. Requirements.—The rubber hose shall conform to the requirements specified below :

2.1 Dimensions and tolerances

2.1.1 Length.—The length of the hose shall be as specified by the purchaser and the tolerance on any hose length shall be \pm per cent.

2.1.2 Internal Diameter.—The internal diameter of the hose shall be as specified by the purchaser.

2.1.3 Requirements of physical tests on finished hose.—The tensile strength and elongation of break of the rubber used for the lining and cover of the hose shall be as follows :

Characteristic	Requirements for lining Cover	
(a) Tensile Strength MPA Min.	4.0	4.0 min.
(b) Elongation of break per cent min.	200	200
Note : MPA—10.2 kgf/cm ²		

2.1.4 Accelerated Ageing Test.—After ageing at $70 \pm 1 \pm C$ for a period of 72 hours, the rubber used for lining and cover of the hose shall not vary by more than ± 10 per cent for tensile strength and elongation at break —15

of the corresponding value obtained before ageing.

2.2 Physical Test.—The hose shall be bent by hand to the under noted degrees without displacement of the wire core or rupture of the canvas covering. The bending should be done once in one direction and then in the opposite direction.

(a) 685 x 51 mm Bend till ends touch

(b) 560 x 51 mm Bend till ends are 102 mm apart.

(c) 455 x 51 mm Bend till ends are parallel.

2.3 Vacuum Rethining Capacity Test.—The Hose shall be connected by means of cylindrical nozzle of 600 mm diameter and not less than 44 mm in length to a chamber of 640 cubic centimeter volume with the free and closed with the cylindrical plug, identical in external dimensions. with the nozzles and with 508 mm of vacuum throughout the assembly, shall not on isolation from the source of vacuum, record a drop of more than 76 mm in one hour on the chamber gauge. The hose shall not be clipped or otherwise bounded to the chamber nozzle or plug for this test.

2.4 Contraction Test.—The hose when subjected to 508 mm of vacuum contract not more than 5 per cent of their original length when at rest.

B. SPECIFICATION FOR RAILWAY WATER FEED HOSE

1. Construction.—The lining shall consist of a suitable rubber compound uniform in thickness, free from air blisters, porosity.

1.2 Reinforcement.—The reinforcement shall be provided by woven fabric or yarn, branded textile reinforcement with spiral type construction, according to the buyer's requirement.

1.3 Cover.—The cover of the moulded hose shall be smooth or fluted as required, hoses manufactured on mandres may have a cloth marked finish. The whole shall be consolidated and uniformly vulcanised.

2. Requirement.—The feed hose shall conform to the requirement specified below :

2.1 Dimensions and tolerances

2.1.1 Internal Diameter.—The internal diameter of the hose shall be as specified by the purchaser.

2.1.2 Length.—The length of the hose shall be as specified by the purchaser, subject to a tolerance on the specified lengths of ± 1 per cent of ± 3 mm whichever is greater.

2.2 Adhesion.—The adhesion shall be such that the separation shall not exceed 25 mm per minute under a load of 3.6 kg between (i) Fabric and Fabric (ii) Fabric and Cover.

2.3 Bend Test.—The hose shall be bent by hand under the following noted degree without displacement of the wide cone of damage of the canvas covering.

635 mm x 51 mm Till the ends are parallel.

Method :—The test place shall be connected to the apparatus end in the case of hoses upto and including 22 mm nominal bore they shall be bent through 100° so that the fittings are parallel and the distance between the two end of the hose at the fittings is twice the minimum radius

± 5 per cent. Hose over 22 mm nominal bore shall be left in straight condition.

2.4 Hydraulic Test.—The hose shall be subjected to an internal water pressure test of 7 kg/cms. for 5 minutes without showing any leakage and rupture.

[F. No. 6(2)/88-EI&EP]

FOOT NOTE :

S.O. No. 1004 dated 23-3-1967

का. प्र. 1683—केंद्रीय सरकार, नियमित (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 17 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, तथा रबड़ नमूनाओं के नियमित (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1967 को अधिकांश करने हुए उन बातों के विचार विमर्श किया गया है या करने का लोप किया गया है, हुए निम्नलिखित नियम बनाने हैं, अर्थात्—

1. संक्षिप्त नाम और प्रारम्भ—(1) इन नियमों का संक्षिप्त नाम रबड़ नमूनाओं, नियमित (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1989 है।

(2) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

2. परिभाषाएँ—इन नियमों में, जब तक कि संदर्भ से अन्यथा अपेक्षित न हो,—

(क) “अधिनियम” से नियमित (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) अभिप्रेत है ;

(ख) “अधिकरण” से प्रसंस्करणगत क्वालिटी नियंत्रण के अधीन प्रमाणीकरण के लिए अधिनियम की धारा 7 के अधीन स्थापित और परेखणवार निरीक्षण के लिए स्थापित/मान्यता प्राप्त नियमित निरीक्षण अधिकरणों में से कोई अधिकरण अभिप्रेत है ;

(ग) “अनुमोदित यूनिट” से ऐसी विनिर्माता यूनिट अभिप्रेत है जो अधिकरण द्वारा अनुमोदित है जिसने प्रसंस्करण में क्वालिटी नियंत्रण की अपेक्षाओं का समाधानप्रद रूप में पालन किया है,

(घ) “परेखणवार निरीक्षण” से परिषद द्वारा अधिकृत रीति में अधिकरण द्वारा निरीक्षणों और परीक्षण से ऐसी अवधारण प्रक्रिया अभिप्रेत है कि क्या नियमित के लिए आशयित रबड़ के नमूनाओं का परेखण मानक विनिर्देशों के अनुरूप है या नहीं ;

(ङ) “परिषद” से अधिनियम की धारा 3 के अधीन स्थापित नियमित निरीक्षण परिषद अभिप्रेत है ;

(च) “प्रसंस्करणगत क्वालिटी नियंत्रण” (जिसे इसमें इसके पश्चात् प्र. क्वा. नियं. कहा गया है) से क्वालिटी नियंत्रण की वह प्रणाली अभिप्रेत है जिसके द्वारा विनिर्माता यूनिट यह सुनिश्चित करने के लिए रबड़ के नमूनाओं का विनिर्माण परिषद द्वारा अधिकृत रीति में सामग्री और संघटकों के क्रय करने उनके विनिर्माण निरीक्षण, परीक्षण और पैकिंग के भिन्न-भिन्न प्रक्रमों पर नियंत्रणों का प्रयोग करके मानक विनिर्देशों के अनुरूप किया जाता है ;

(छ) “कालिक संदर्भ” से ऐसा संदर्भ अभिप्रेत है जो अधिकरण के अधिकारी (रिजेंट) द्वारा यूनिट में प्र. क्वा. नि. की अपेक्षाओं का अनुपालन सुनिश्चित करने के लिए, नियमित अंतरालों पर अनुमोदित यूनिट में किया जाता है ;

(ज) “रबड़ नमूनाओं” से इस अधिसूचना के उपाबंध के खंड 6 में उल्लिखित कोई भी रबड़ नमूना अभिप्रेत है। वरन्तः

रबड़ से बने हुए फीब्रिक या गुंथी हुई एई. स्टैन्लेस स्टील, मॉनिटरिंग यून के साथ प्रयोजन और रबड़ की संरचना के ऊपर गुंथी हुई और जो उच्च या कम दबाव के अधीन समान प्रकार के तरंगों के निस्सारण या चूषण के प्रयोजनों के लिए प्रयोग की जाती है ; और

(झ) “रबड़ पर जांच” से अधिकरण द्वारा नियमित परेखण का ऐसा निरीक्षण अभिप्रेत है जिससे परिषद द्वारा अधिकृत रीति में मानक विनिर्देशों से उसकी अनुकूलता सुनिश्चित की जाती है।

3. निरीक्षण का आधार—नियमित के लिए आशयित रबड़ नमूनाओं का निरीक्षण यह देखने की दृष्टि से किया जाएगा कि वे अधिनियम की धारा 6 के अधीन केंद्रीय सरकार द्वारा मान्यता प्राप्त मानक विनिर्देशों के अनुरूप हैं, या

(i) यह सुनिश्चित करने हुए कि उत्पाद, प्रसंस्करणगत आवश्यक क्वालिटी नियंत्रण जैसा कि निरीक्षण की प्रसंस्करण में क्वालिटी नियंत्रण प्रणाली के अंतर्गत आने वाली यूनिटों के संबंध में इस अधिसूचना के परिशिष्ट-क में विनिर्दिष्ट है, का प्रयोग करते हुए विनिर्माण किया गया है ; या

(ii) परेखणवार निरीक्षण प्रणाली के अंतर्गत आने वाली यूनिटों के संबंध में इन नियमों के परिशिष्ट-ख में विनिर्दिष्ट रीति में किए गए निरीक्षण और परीक्षण के आधार पर।

4. निरीक्षण की प्रक्रिया—(1) रबड़ नमूनाओं के परेखण का नियमित करने का इच्छुक नियमितकर्ता, नियमित संविदा या आदेश की एक प्रति संविदात्मक विनिर्देशों का गौरा देने हुए, अधिकरण को लिखित सूचना देगा ताकि अधिकरण नियम 3 के उपबंधों के अनुसार निरीक्षण करने में समर्थ हो सके।

(2) परिशिष्ट-क में अधिकृत प्रसंस्करणगत पर्याप्त क्वालिटी नियंत्रण का प्रयोग करते हुए तथा इस प्रयोजन के लिए परिषद द्वारा गठित विशेषज्ञों के पैनल द्वारा प्रसंस्करणगत पर्याप्त क्वालिटी नियंत्रण द्वारा रबड़ के नमूने वाले विनिर्माण यूनिट द्वारा विनिर्मित रबड़ नमूनाओं का नियमित करने के लिए नियमितकर्ता उपनियम (1) में उल्लिखित सूचना के साथ एक घोषणा भी देगा कि नियमित के लिए आशयित रबड़ नमूनाओं का परेखण परिशिष्ट-क में अध्यायित पर्याप्त क्वालिटी नियंत्रण का प्रयोग करते हुए विनिर्मित किया गया है और यह कि परेखण इस प्रयोजन के लिए मान्यता प्राप्त मानक विनिर्देशों के अनुरूप है।

(3) नियमितकर्ता अधिकरण को नियमित किए जाने वाले परेखण पर लगाए जाने वाले पहचान चिह्न देगा।

(4) उपर्युक्त उपनियम (1) के अधीन प्रत्येक सूचना विनिर्माता के परिषद से परेखण भेजे जाने से कम से कम सात दिन पूर्व दी जाएगी किन्तु उपनियम (2) के अधीन घोषणा के साथ सूचना के मामले में विनिर्माता के परिषद से परेखण के भेजे जाने से कम से कम तीन दिन पूर्व दी जाएगी।

(5) उपनियम (1) के अधीन सूचना और उपनियम (2) के अधीन घोषणा, यदि कोई हो, के प्राप्त होने पर, अधिकरण—

(क) (i) विनिर्माण प्रसंस्करण के दौरान अपने यह समाधान कर लेने पर कि विनिर्माता ने परिशिष्ट-क में अधिकृत पर्याप्त क्वालिटी नियंत्रणों का प्रयोग किया था और इस प्रयोजन के लिए मान्यता प्राप्त मानक विनिर्देशों के अनुरूप उत्पादन का विनिर्माण करने के संबंध में परिषद या अधिकरण द्वारा जारी

किण गए निरीक्षणों, यदि कोई हो प्राप्त किया है तीन दिन के भीतर रजिस्ट्रार न्यायालयों के परेषण को निर्धारित योग्य घोषित करने हुए प्रमाणपत्र जारी करेगा,

(ii) ऐसी दशा में जहाँ विनिर्माता, निर्मातकर्ता नहीं है किन्तु परेषण का भौतिक मूल्यापन किया जाएगा और ऐसा मूल्यापन तथा निरीक्षण यदि आवश्यक हो अभिकरण द्वारा यह सुनिश्चित करने के लिए निरीक्षण जगहों पर उपस्थित करने का पर्याप्त किया गया है ;

(iii) अभिकरण, निर्धारित के लिए प्राणधियां कुछ परेषणों की स्थान पर जांच करेगा, और यूनिट द्वारा अपनाए गए प्रसंस्करण क्वालिटी नियंत्रण डिवाइसों की पर्याप्तता को बनाए रखने की सुझावित करने के लिए नियमित अंतरालों पर निरीक्षण यूनिटों का दौरा करेगा,

(iv) यदि विनिर्माण यूनिट में यह पता जाता है कि उसमें विनिर्माण के किसी भी प्रक्रम पर अपेक्षित क्वालिटी नियंत्रण को नहीं अपनाया जा रहा है या अभिकरण की निष्कारियों का पालन नहीं किया गया है तो यह घोषित किया जाएगा कि यूनिट के पास प्रसंस्करणगत पर्याप्त क्वालिटी नियंत्रण डिवाइस नहीं हैं और ऐसे मामलों में, यदि यूनिट ऐसी बांछा करे तो प्रसंस्करणगत पर्याप्त क्वालिटी नियंत्रण की व्यवस्था को बनाए रखने के लिए तत्प्राप्त प्रवेदन देगी ।

(ख) ऐसी दशा में जहाँ निर्मातकर्ता ने नियम 4 के उपनियम (2) के अधीन यह घोषित नहीं किया है कि परिशिष्ट-क में अधिकृत पर्याप्त क्वालिटी नियंत्रण का प्रयोग किया गया है, अपना यह समाधान कर लेने पर कि रजिस्ट्रार के न्यायालयों का परेषण इस प्रयोजन के लिए मंजूर प्राप्त मानक विनिर्देशों के अनुरूप है । परिशिष्ट-ख में अधिकृत के अनुसार किण ग निरीक्षण तथा परीक्षण के आधार पर ऐसे निरीक्षण करने के सत दिनों के भीतर यह घोषणा करने हुए एक प्रमाणपत्र जारी करेगा कि परेषण नियमित योग्य है ।

परन्तु जहाँ अभिकरण का ऐसा समाधान नहीं होता यहाँ उसका तत्प्राप्त दिनांकित दिन की अवधि के भीतर निर्मातकर्ता को प्रमाणपत्र जारी करने से इंकार कर देगा, और ऐसे इंकार की सूचना उसके कारणों सहित निर्मातकर्ता को देगा ।

(ग)(i) ऐसी दशा में, जहाँ विनिर्माता उपनियम (5) के अधीन निर्मातकर्ता नहीं है या परेषण का उपनियम (5) (ख) के अधीन निरीक्षण किया जाता है, यहाँ अभिकरण निरीक्षण के पूरा होने के तुरन्त पश्चात् परेषण में पैकेजों को ऐसी रीति में सीलबंद करेगा जिसमें कि यह सुनिश्चित हो जाए कि सीलबंद पैकेजों में रद्दोबदल न की जा सके

(ii) परेषण के अस्वीकृति की दशा में, यदि निर्मातकर्ता ऐसी बांछा करे तो परेषण अभिकरण द्वारा सीलबंद नहीं किया जाएगा, किन्तु ऐसे मामलों में निर्मातकर्ता अस्वीकृति के विरुद्ध कोई अपील करने का हकदार नहीं होगा ;

5 निरीक्षण का स्थान:—इन नियमों के अधीन प्रत्येक निरीक्षण या तो (क) ऐसे उत्पाद के विनिर्माता के परिसरों पर, या (ख) ऐसे परिसरों पर, जहाँ निर्मातकर्ता द्वारा निरीक्षण के लिए माल प्रस्तुत किया जाता है, किया जाएगा, परन्तु यह तब जब तक जहाँ इस प्रयोजन के लिए पर्याप्त सुविधाएं विद्यमान हों ।

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6. निरीक्षण पास:—निर्मातकर्ता द्वारा अभिकरण को निम्नानुसार फॉर्म में जागसी,—

(1) (क) प्रसंस्करणगत क्वालिटी नियंत्रण स्कीम के अंतर्गत निर्धारित के लिए निर्धारित न्यूनतम 20 रु. प्रति परेषण के अधीन रहने हुए, प्रति परेषण निम्नलिखित मूल्य के 0.2 प्रतिशत की दर से,

(ख) परेषणकार निरीक्षण के अंतर्गत निर्धारित के लिए न्यूनतम 20 रु. प्रति परेषण के अधीन रहने हुए, प्रति परेषण निम्नलिखित मूल्य के 0.4 प्रतिशत की दर से ।

(ii) उन विनिर्माताओं/निर्मातकर्ताओं के लिए जो राज्यों/संघ राज्य क्षेत्रों की संबंधित सरकारों के पास लघु उद्योग एककों के रूप में रजिस्ट्रीकृत हैं प्रति परेषण कम से कम 20 रु. के अधीन रहने हुए (क) और (ख) के लिए क्रमशः 0.18 प्रतिशत और 0.36 प्रतिशत की दर से होंगे ।

7. शर्तिका:—(1) नियम 4 के उपनियम (ज) के अधीन प्रमाणपत्र जारी करने के अभिकरण के इंकार से व्यथित कोई व्यक्ति, ऐसे इंकार की सूचना प्राप्त होने के दस दिन के भीतर केन्द्रीय सरकार द्वारा गठित ऐसे विशेषज्ञों के पैनल को अपील कर सकेगा, जिसमें कम से कम तीन तथा अधिक से अधिक गत व्यक्ति होंगे ।

(2) विशेषज्ञों के पैनल की कुल सदस्यता के कम से कम दो तिहाई सदस्य गैर-सरकारी होंगे ।

(3) विशेषज्ञों के पैनल की गणपूर्ति नीचे में होगी

(4) अपील उसके प्राप्त होने के पन्द्रह दिनों के भीतर निपटायी जाएगी ।

[फॉर्म नं. 6(2)/88-ई आई.एस.ई.पी.]

पाद टिप्पण:—का. आ. सं. 1005 तारीख 23-3-67

परिशिष्ट-क

प्रसंस्करणगत क्वालिटी नियंत्रण :—निर्धारित के लिए प्राणधियां रजिस्ट्रार के न्यायालयों का क्वालिटी नियंत्रण यह देखने की दृष्टि से किया जाएगा कि वे विनिर्माण के विभिन्न प्रक्रमों पर निम्नलिखित नियंत्रणों का प्रयोग करते हुए अभिनियम की धारा 6 के अधीन केन्द्रीय सरकार द्वारा मान्यता प्राप्त मानक विनिर्देशों के अनुरूप हैं, अर्थात् :—

(i) कच की गयी सामग्री और संघटक निरंतरता: (क) प्रयुक्त किए जाने वाले संघटकों की सामग्री के गुणों को समाविष्ट करने हुए विनिर्माता द्वारा कच विनिर्देश अधिकृत किए जाएंगे तथा आने वाले माटों की अनुस्यूता सुनिश्चित करने के लिए निरीक्षण या परीक्षण के पर्याप्त साधन होंगे ।

(ख) स्वीकृत परेषणों के साथ, जहाँ तक संभव हो या तो कच विनिर्देशों की अपेक्षाओं को समाविष्ट करने हुए प्रदायकर्ता कच परीक्षण या निरीक्षण प्रमाणपत्र होगा, जिसमें विनिर्माता द्वारा विशेष प्रदायकर्ता के लिए एक आकस्मिक जांच (अर्थात् उर्वर सामग्री के उर्वर प्रदायों के लिए वर्ष की प्रत्येक तिमाही में एक बार) उर्वरक निरीक्षण या परीक्षण प्रमाणपत्र की शुद्धता को सुस्थापित करने के लिए की जाएगी, या कच की गयी सामग्री या संघटकों का नियमित रूप से प्रायोगिकता में या किसी परीक्षण शर्तों में निरीक्षण या परीक्षण किया जाएगा;

(ग) किए जाने वाले निरीक्षण या परीक्षण के लिए नमूना लेना अधिकृत विशेषज्ञों पर सौंपा होगा;

- (घ) निरीक्षण या परीक्षण करने के पश्चात् स्वीकृत और अस्वीकृत सामग्री या संघटकों के व्यवस्थापन में और अस्वीकृत सामग्री या संघटकों का निपटारा करने के लिए व्यवस्थित पद्धतियाँ अपनाई जाएंगी।
- (ङ) उपरोक्त वर्णित नियंत्रणों के संबंध में विनिर्दिता द्वारा पर्याप्त अभिलेख नियमित और व्यवस्थित रूप से बनाए रखे जाएंगे।
- (2) प्रसंस्करण नियंत्रण : (क) विनिर्दिता द्वारा विनिर्माण के विभिन्न प्रसंस्करणों के लिए ब्यौरेवार प्रसंस्करण विनिर्देश अधिकथित किए जाएंगे;
- (ख) प्रसंस्करण विनिर्देशों में अधिकथित के अनुसार प्रसंस्करणों पर नियंत्रण रखने के लिए पर्याप्त उद्योग, कारणात्मक और सुविधाएं होंगी;
- (ग) विनिर्दिता द्वारा, विनिर्माण के प्रसंस्करण के दौरान प्रयुक्त नियंत्रणों की संभावित वांछित सुनिश्चित करने के लिए पर्याप्त अभिलेख बनाए रखे जाएंगे।
- (3) उत्पाद नियंत्रण : (घ) विनिर्दिता के पास अधिनियम की धारा 6 के अधीन मान्यता प्राप्त विनिर्देशों के अनुसार उत्पाद का परीक्षण करने के लिए या तो अपनी परीक्षण सुविधाएं होंगी या उनकी पहुंच वहाँ तक होगी जहाँ ऐसी परीक्षण सुविधाएं विद्यमान हों,
- (ख) परीक्षण के लिए नमूना लेना (जहाँ कहीं अपेक्षित हों) अभिलेखित घटने पर आधारित होगा,
- (ग) किए गए परीक्षणों के बारे में विनिर्दिता द्वारा पर्याप्त अभिलेख नियमित तथा व्यवस्थित रूप से रखे जाएंगे।
- (4) परिरक्षण नियंत्रण :— (क) विनिर्दिता द्वारा उत्पाद को नौसानी धातुओं के प्रतिकूल प्रभाव से बचाने के लिए ब्यौरेवार विनिर्देश अधिकथित किए जाएंगे,
- (ख) उत्पाद लदान पकन के लिए भंडारण तथा अभिवहन दोनों के दौरान पर्याप्त रूप से परिरक्षित किया जाएगा।
- (5) माप संबंधी नियंत्रण :— उत्पादन और निरीक्षण के प्रयुक्त लेजों और उपकरणों की कालिक जांच या उनका अंशनीयन किया जाएगा और विनिर्दिता द्वारा अभिलेख वृत्तकार्ड के रूप में बनाए रखे जाएंगे।
- (6) विनिर्दिता, नियति किए जाने वाले पैकेजों के लिए ब्यौरेवार पैकिंग विनिर्देश अधिकथित करेगा और उनका कठोरता में पालन करेगा। नियति निरीक्षण परिषद द्वारा विहित पैकिंग कोड को ध्यान में रखा जाएगा।
- (7) विश्वस्तता नियंत्रण :— विश्वस्तता डिजाइन का उद्घाटन करने के लिए उचित शिकायत प्रतियोगिता प्रणाली लागू की जाएगी। शिकायतों और उनकी जांच पड़ताल के अभिलेख उपयुक्त रूप से बनाए रखे जाएंगे।

परिशिष्ट 2

परीक्षणवार निरीक्षण

1. खंड के नमूनेदारों का परीक्षण, अधिनियम की धारा 6 के अंतर्गत मान्यता प्राप्त विनिर्देशों से उनकी अनुसूचता सुनिश्चित करने के लिए निरीक्षण और परीक्षण के अंतर्गत होगा।

2. नमूना लेना और अनुसूचता के मापदंड के संबंध में संविदा में विनिर्दिष्ट अनुबंध के अभाव में वे जो इसमें मौखिक अधिकथित हैं, निम्न:

निरीक्षण परिषद द्वारा समय समय पर जारी किए गए विनिर्देशों या संशोधनों को ध्यान में रखते हुए लागू हों।

2.1 लॉट-किमी भी परीक्षण में, एक ही प्रकार/श्रेणी/आकार/व्यास के खंड के नमूनेदारों की सभी लम्बाइयों आवश्यक रूप से एक जैसी विनिर्माण की अवस्थाओं (जैसे कच्ची सामग्री के एक ही स्त्रोत/एक उत्पादन प्रणाली/एक ही संगठन प्रक्रिया आदि) करने के अधीन उत्पादि उत्पादों की एक जैसी संख्या 100 लम्बाइयों या इससे कम के खंडों में प्रत्येक को जाएगी और ऐसा प्रत्येक नमूनेदार लॉट का गठन करेगा।

2.2 खंड के नमूनेदारों पर किसी भी विनिर्देश की अपेक्षाओं के लिए लॉट की अनुसूचता का निर्धारण करने के लिए प्रत्येक खंड के प्रत्येक परीक्षण किए जाएंगे। इस प्रयोजन के लिए चयन किए जाने वाले नमूनेदारों की लम्बाइयों का संख्या सारणी-1 के स्तम्भ 1 और 2 के अनुसार होगी।

2.3 नमूनेदारों की लम्बाइयों की अपेक्षित संख्या, लॉट में से लम्बाई के बीच में से सहसा चयन की जाएगी। इस प्रयोजन के लिए बंडलों की उपयुक्त संख्या (नमूनेदारों के एक या अधिक लम्बाई सम्मिलित करते हुए) जो लॉट में बंडलों के 40 प्रतिशत से कम नहीं होगी, पहले चयन की जाएगी और इस प्रकार चयन किए गए बंडलों में से प्रत्येक से लम्बाई की बराबर संख्या सहसा ली जाएगी ताकि सारणी 1 के स्तम्भ 2 में दी गई लम्बाइयों का वांछित संख्या प्राप्त की जा सके।

सारणी 1

लॉट आकार (लम्बाइयों में)	नमूना लेने का मापदंड	
	नमूना आकार (लम्बाइयों में)	वृत्तीय, लम्बाइयों की अनुसूच संख्या
(1)	(2)	(3)
15 तक	सभी	0
16 से 40	15	0
41 से 100	25	1

2.3.1 उदाहरण के लिए, यदि 15 बंडलों में पैक किए हुए कुछ प्रकार के खंड के नमूनेदारों की 75 लम्बाई में एक लॉट है और जिसमें प्रत्येक में पांच लम्बाई है तो 6 बंडलों से कम का चयन नहीं किया जाएगा। छह बंडलों को खोलने का निर्देशन दिया जाता है तो शेष बंडल में से ऐसे प्रत्येक मात्र बंडलों में से नमूनेदारों की तीन लम्बाइयों सहसा चयन की जाएगी, चार लम्बाइयों चयन की जाएगी जिससे कि सारणी 1 में यथा अपेक्षित 25 लम्बाइयों की कुल संख्या दी जा सके।

2.4 अंततः प्रत्येक के लक्षणों के लिए परीक्षण

2.4.1 पैरा 2.3 के अनुसार चयन किए गए नमूनेदारों की लम्बाइयों बायु फोनों, संरचना तथा अन्य सनही वृत्तियों और संरचनात्मक ब्यौरे जैसी प्रयोज्य लम्बाइयों की संख्याओं का वांछित निरीक्षण किया जाएगा लम्बाई आन्तरिक व्यास, बाह्य व्यास के विनीय मापों के अधीन भी होंगे और लम्बाई, जो नमूनेदारों को काटने के लिए अपेक्षित नहीं होती है एक या एक से अधिक इन लक्षणों के बारे में किसी भी लम्बाई के अभाव पर वृत्तिपूर्ण लम्बाई समझी जाएगी।

2.4.2 यदि वृत्तिपूर्ण लम्बाइयों की संख्या सारणी-1 के स्तम्भ 3 में दी गयी वृत्तिपूर्ण लम्बाइयों की संख्याओं से अधिक नहीं जाती है तो लॉट को इन लक्षणों की अपेक्षाओं के अनुरूप घोषित किया जाएगा।

केवल ऐसे लॉटों के लक्षणों के नाशक प्रकार की आगे परीक्षा की जाएगी जो पैरा 2.5 में दिए गए हैं।

2.5 लक्षणों के नाशक प्रकार के लिए परीक्षण

2.5.1 पैरा 2.4.2 के अनुसार समाधानप्रद पाए जाने वाले ऐसे प्रत्येक लॉट में से दो रबड़ के नमूनालों को एक लम्बाई, विभिन्न विनिर्देश अपेक्षाओं (जैसे आंतरिक व्यास, तनन सामर्थ्य आसंजन आदि) जिसमें नमूनालों की कटिंग भी अंतर्बलित है, का निर्वारण करने के लिए परीक्षण टुकड़ा देने के लिए उन्हें से जो पहले चयनित है (पैरा 2.3 देखें) में से सहसा चुनी जाएगी। इन सभी निर्वारणों के लिए अंशित परीक्षण टुकड़े या तो रबड़ के नमूनालों की चुनी हुई लम्बाई के दोनों में से किसी सिरे में से काटे जाएंगे।

2.5.2 लॉट को विनिर्देशों की अपेक्षाओं के अनुरूप घोषित कर दिया जाएगा यदि विभिन्न लक्षणों के निर्वारण के लिए परिणाम समाधानप्रद पाए जाते हैं, यदि किसी लक्षण के परीक्षण परिणाम विनिर्देशों की पूर्णतः अपेक्षा को पूरा करने में असमर्थ रहते हैं तब लॉट में से चुने हुए नमूनालों की अन्य विभिन्न दो लम्बाई पर उस लक्षण के लिए दो और परीक्षण किए जाएंगे और इन दोनों परीक्षणों के समाधानप्रद पाए जाने पर ही लॉट को उस लक्षण की अपेक्षाओं के अनुरूप समझा जाएगा, अन्यथा नहीं।

टिप्पण—यदि नमूनालों की लम्बाई में से परीक्षण टुकड़ों की कटिंग अभिव्यक्ति असाध्य पाई जाती है तो परीक्षण टुकड़ों की अपेक्षित संख्या उनी प्रक्रिया द्वारा उत्पादित किए जाएंगे जिसके द्वारा लॉट में नमूनालों का विनिर्माण किया गया है और लॉट के साथ पृथक् रूप से प्रदाय किए गए हैं।

3. परीक्षण की रीति

3.1 अब तक कि निर्यात संविदा में अन्यथा अनुबंधित न हो, रबड़ के नमूनालों के परीक्षण के लिए अपनाई गयी परीक्षण रीति वही होगी जो सुसंगत भारतीय मानकों में दी गई है।

4. लम्बी अवधि के परीक्षण/प्रकार परीक्षण

4.1 जब निर्यात संविदाएं आत्मनिर्भर/निष्पादन परीक्षण/गारंटी मापदण्डों से संबंधित परीक्षणों के लिए उपबन्ध करती हैं और उसी के परीक्षण अनुबंधित अवधि (सात दिन या लगभग) के भीतर निष्पादित नहीं किया जा सकता, इन परेक्षणों में एक ही की आवृत्ति पर न उनों की तथा कार्योंत्तर के आधार पर परीक्षण और पूर्व निष्पादन के आधार पर निरीक्षण के प्रमाणपत्र जारी किए जा सकते हैं। तथापि, अधिकरण अपना यह समाधान करेगा कि जो परीक्षण कार्योंत्तर के आधार पर किया गया है वह निर्यातकर्ता विनिर्माता द्वारा पहले ही किया जा चुका है और परेक्षण निर्यात के लिए अनुज्ञात किया जाएगा परन्तु यह तब जब कि विनिर्माता/निर्यातकर्ता द्वारा किए गए परीक्षण निर्यात संविदा की अपेक्षाओं को पूरा करते हैं।

S.O. 1683.—In exercise of the powers conferred by section 17 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), and in supersession of the Export of Rubber Hoses (Quality Control and Inspection) Rules, 1967, except things done or omitted to be done before such supersession, the Central Government hereby makes the following rules, namely:—

1. Short title and commencement.—(1) These rules may be called the Export of Rubber Hoses (Quality Control and Inspection) Rules, 1989;

(2) They shall come into force on the date of their publication in the official Gazette.

2. Definitions.—In these rules, unless the context otherwise requires—

- (a) "Act" means the Export (Quality Control and Inspection) Act, 1963 (22 of 1963);
- (b) "Agency" means any one of the Export Inspection Agencies established under section 7 of the Act for certification under in-process Quality Control (IPQC) and established/recognised for consignment-wise inspection
- (c) "Approved unit" means a manufacturing unit approved by the Agency as having satisfied the requirements of IPQC ;
- (d) "Consignment-wise inspection" means the process of determining whether a consignment or rubber hoses meant for export complies with the standard specifications, by inspections and testing by the Agency in a manner as laid down by the Council;
- (e) "Council" means the Export Inspection Council established under section 3 of the Act;
- (f) "Inprocess Quality Control" (hereinafter also referred to as IPQC) means a system of quality control by which a manufacturing unit ensures that rubber hoses are manufactured to conform to the standard specifications by exercising controls at different stages of purchase of materials and components, manufacture, inspection, preservation and packing in a manner as laid down by Council.
- (g) "Periodic Visit" means a visit made by officer(s) of the Agency to the approved unit at intervals to ensure compliance of the requirements of IPQC in the unit;
- (h) "Rubber Hoses", shall mean any of the rubber hoses mentioned in Annexure-I to the notification issued under section 6 of the Act and made from vulcanized rubber, reinforced with woven fabric or braids of cotton, stainless steel, synthetic yarn and woven over the rubber lining, used for the purpose of discharge or suction of all types of fluids under high or low pressure;
- (i) "Spot Check" means an inspection by the Agency of an export consignment to ensure its conformity to the standard specifications in a manner as laid down by the Council.

3. Basis of Inspection.—Inspection of rubber hoses intended for export shall be carried out with a view to seeing that the same conforms to the standard specifications recognised by the Central Government under section 6 of the Act;

EITHER

- (i) by ensuring that the products have been manufactured by exercising necessary in-process quality control as specified in Appendix A to this notification in respect of units coming under in-process quality control system of inspection;

OR

- (ii) on the basis of inspection and testing carried out in the manner specified in Appendix-B to these rules in respect of units coming under consignmentwise system of inspection.

4. Procedure of Inspection.—(1) An exporter intending to export consignment of rubber hoses shall give an intimation in writing to the agency furnishing therein details of the contractual specifications along with a copy of the export contract or order to enable the agency to carry out inspection in accordance with the provisions of rule 3.

(2) For export of rubber hoses manufactured by exercising adequate in-process quality control as laid down in Appendix A and the manufacturing unit adjudged as having adequate in-process quality control drills by a panel of experts constituted by the Council for this purpose, the exporter shall also furnish along with the intimation mentioned in sub-rule (1), a declaration that the consignment of rubber hoses intended for export has been manufactured by exercising adequate quality control as laid down in Appendix-A and that

the consignment conforms to the standards specifications recognised for the purpose.

(3) The exporter shall furnish to the agency the identification marks applied to the consignment to be exported.

(4) Every intimation under sub-rule (1) above, shall be given not less than seven days prior to the despatch of the consignment from the manufacturer's premises, while in the case of intimation along with declaration under sub-rule (2) shall be given not less than three days prior to the despatch of the consignment from the manufacturer's premises.

(5) On receipt of the intimation under sub-rule (1) and the declaration, if any, under sub-rule (2), the Agency,—

(a) (i) on satisfying itself that during the process of manufacture, the manufacturer had exercised adequate quality controls as laid down in Appendix-A and followed the instructions, if any, issued by the Council or Agency in this regard to manufacture the product to conform to the standard specifications recognised for the purpose, shall within three days, issue a certificate declaring the consignment of rubber hoses as exportworthy.

(ii) in case where the manufacturer is not the exporter, however, the consignment shall be physically verified and such verification and inspection, if necessary, shall be carried out by the agency to ensure that the above conditions are complied with.

(iii) The Agency shall, however, carry out the spot-check of some of the consignments meant for export and shall visit the manufacturing unit at regular intervals to verify the maintenance of the adequate in-process quality control drills adopted by the unit.

(iv) if the manufacturing unit is found not adopting the required quality control measures at any stage of manufacture or does not comply with the recommendations of the Council or Agency the unit shall be declared as not having adequate in-process quality control drills and in such cases, the unit if so desire, shall apply afresh for adjudgement of the maintenance of adequacy of in-process quality control drills.

(b) In case where the exporter had not declared under sub-rule (2) of rule 4 that adequate quality control as laid down in Appendix-A had been exercised, on satisfying itself that the consignment of rubber hoses conforms to the standard specifications recognised for the purpose, on the basis of inspection and testing carried out as laid down in Appendix-B shall within seven days of carrying out such inspection issue a certificate declaring the consignment as exportworthy :

Provided that where the agency is not so satisfied, it shall within the said period of seven days/three days refuse to issue a certificate to the exporter and shall communicate such refusal to the exporter along with the reasons.

(c) (i) In case where the manufacturer is not the exporter under sub-rule (5) or consignment is inspected under sub-rule (5)(b), the agency shall immediately after completion of the inspection seal the packages in the consignment in a manner so as to ensure that the sealed packages cannot be tampered with.

(ii) In case of rejection of the consignment, if the exporter so desires, the consignment may be sealed by the agency but in such cases, however, the exporter shall not be entitled to prefer any appeal against the rejection.

5. Place of inspection.—Every inspection under these rules shall be carried out either (a) at the premises of the manufacturer of such products; or (b) at the premises at which the goods are offered by the exporter for inspection, provided adequate facilities for the purpose exist therein.

6. Inspection fee.—Inspection fee shall be paid by the exporter to the agency as under :—

(i) (a) for exports under in-process quality control scheme, at the rate of 0.2% of f.o.b. value subject to a minimum of Rs. 20 per consignment;

(b) for exports under consignmentwise inspection at the rate of 0.4 of the f.o.b. value subject to a minimum of Rs. 20 per consignment.

(ii) subject to the minimum of Rs. 20 per consignment, the rate shall be 0.18 per cent and 0.36 per cent for (a) and (b) respectively for manufacturers/exporters who are registered as Small Scale manufacturing units with the concerned Government of State/Union Territories.

7. Appeal.—(1) Any person aggrieved by the refusal of the Agency to issue a certificate under sub-rule (5) of rule 4, may, within ten days of the receipt of communication of such refusal by him, prefer an appeal to a panel of experts consisting of not less than three but not more than seven persons as may be constituted by the Central Government.

(2) The panel of experts shall consist of at least two thirds of non-officials of the total membership.

(3) The quorum for the panel of experts shall be three.

(4) The appeal shall be disposed of within fifteen days of its receipt.

[F. No. 6(2)/88-EI&EP]

FOOT NOTE :

S.O. No. 1005 dated 23-3-1967.

APPENDIX-A

IN-PROCESS QUALITY CONTROL

The quality control of the rubber hoses intended for export shall be done with a view to see that the same conform to the specifications recognised by the Central Government under section 6 of the Act by effecting the following controls at different stages of manufacture, namely :—

(i) Boughtout materials and components control.—(a) Purchase specifications shall be laid down by the manufacturer incorporating the properties of materials of components to be used and shall have adequate means of inspection of testing to ensure conformity of the incoming lots;

(b) The accepted consignments shall be either, as far as possible, accompanied by a supplier's tests or inspection certificate corroborating the requirement of the purchase specifications, in which case occasional check (that is to say once in each quarter of the year for the same supplies of the same material) shall be conducted by the manufacturer for a particular supplier to verify the correctness of the aforesaid test or inspection certificates, or the purchased materials or components shall be regularly inspected or tested either in a laboratory or test houses;

(c) The sampling for inspection or test to be carried out shall be based on a recorded investigation;

(d) After the inspection of test is carried out, systematic methods shall be adopted in segregating the accepted and rejected materials or components and in disposal of rejected materials or components;

(e) Adequate records in respect of the above mentioned controls shall be regularly and systematically maintained by the manufacturer.

(ii) Process Control.—(a) Detailed process specifications shall be laid down by the manufacturer for different processes of manufacture;

(b) Equipment, instrumentation and facilities shall be adequate to control the processes as laid down in the process specification;

(c) Adequate records shall be maintained by the manufacturer to ensure the possibility of verifying the controls exercised during the process of manufacture.

(iii) Product Control.—(a) The manufacturer shall either have his own adequate testing facilities or shall have access to such testing facilities existing elsewhere to test the product as per the specification recognised under section 6 of the Act;

(b) Sampling (wherever required) for testing shall be based on a recorded investigation;

(c) Adequate records in respect of tests carried out shall be regularly and systematically maintained by the manufacturer.

(iv) Preservation Control.—(a) A detailed specification shall be laid down by the manufacturer to safeguard the product from adverse effects of weather conditions;

(b) The product shall be adequately preserved both during storage and transit to the port of shipment.

(v) Metrological Control.—Gauges and instruments used in the production and inspection shall be periodically checked or calibrated and records shall be maintained in the form of history cards by the manufacturer.

(vi) Packing Control.—The manufacturer shall lay down a detailed packing specifications for export packages and shall strictly adhere to the same. The code of packaging prescribed by Export Inspection Council shall be kept in view.

(vii) Reliability Control.—Proper complaint feed-back system shall be introduced to modify the existing designs. Records of complaints and their investigation shall be properly maintained.

APPENDIX-B

CONSIGNMENTWISE INSPECTION

1. The consignment of rubber hoses shall be subjected to inspection and testing to ensure conformity of the same to the specifications recognised under section 6 of the Act.

2. In the absence of specific stipulation in the contract as regards sampling and criteria of conformity, the same laid down hereunder shall become applicable, taking into consideration any modifications or amendments issued by Export Inspection Council from time to time.

2.1 Lot.—In any consignment, all the lengths of rubber hoses of the same type/grade/size/diameter, having the same number of plies produced under essentially similar conditions of manufacturer (such as those from single batch of raw materials/from components obtained from a single source/from a single production method/undergoing a single curing process, etc.) shall be separated into groups of 100 lengths or less and each such group shall constitute a lot.

2.2 Tests for the determination of the conformity of a lot to the requirements of any specification on rubber hoses shall be carried out for each lot separately. The number of lengths of hoses to be selected for this purpose shall be in accordance with columns 1 and 2 of Table-I.

2.3 The required number of lengths of hoses shall be selected at random from among the lengths in the lot. For this purpose, a suitable number of bundles (containing one or more lengths of hoses) not less than 40 per cent of the bundles in the lot shall be closed first and from each of the bundles so chosen equal number of lengths shall be taken out at random so as to obtain the desired number of lengths indicated in column 2 of Table-I.

TABLE-I

Lot size (in lengths)	Scale of sampling	
	Sampling size (in lengths)	Permissible number of defective lengths
1	2	3
Upto 15	All	0
16 to 40	15	0
41 to 100	25	1

2.3.1 For example, if a lot consists of 75 lengths of a certain type of rubber hoses packed in 15 bundles each containing five lengths, then not less than six bundles shall be chosen. If it is decided to uppack eight bundles then three lengths of hoses shall be chosen at random from each of the seven such bundles from the remaining bundle, four lengths shall be chosen so as to give a total number of 25 lengths as required in Table-I.

2.4 Tests for Non-destructive type of characteristic :

2.4.1 The lengths of hoses selected according to 2.3 shall be inspected visually for defects like air blisters, porosity and other surface defects and for constructional details like number of reinforcement plies. The lengths shall also be subjected to dimensional measurement of internal diameter, external diameter and length which does not require cutting up of hoses. Any length found to be unsatisfactory with regard to one or more of these characteristics shall be considered as a defective length.

2.4.2 If the number of defective lengths found is not greater than the corresponding number of defectives given in column 3 of Table-I, the lot shall be declared as conforming to the requirements of these characteristics. Only such lots shall be further examined for the destructive type of characteristics as given in 2.5.

2.5 Tests for Destructive type of Characteristics

2.5.1 From each of such lots which are found to be satisfactory according to 2.4.2, one length of rubber hose shall be chosen at random from those already selected (see 2.3) to provide test pieces for the determination of various specification requirements (such as internal diameter, tensile strength, adhesion etc.) which involve cutting up of the hoses. The test pieces required for all these determinations may be cut from either end of the chosen length of rubber hose.

2.5.2 The lot shall be declared as conforming to the requirements of the specification if the test results for the determination of different characteristics are all found satisfactory. In case the test results for any characteristics fail to meet the relevant requirement of the specification, two more tests shall be conducted for that characteristic or two other different lengths of hoses chosen from the lot and only on finding these two tests satisfactory, the lot shall be considered as conforming to the requirements of the characteristic; otherwise not.

Note :—In case the cutting up of test pieces from a length of hose is found to be uneconomical or impracticable, the required number of test pieces may be produced by the same process by which the hoses in the lot have been manufactured and supplied separately along with the lot.

3. Method of Tests.

3.1 Unless otherwise stipulated in the export contract, the methods of test followed for testing of rubber hoses shall be same as given in the relevant Indian Standards.

4. Long duration tests/type tests.

4.1 Where export contracts provide for tests relating to shelf life/performance test/guarantee criteria and the test for the same cannot be performed within the stipulated period (seven days or so) samples at a frequency of one in ten consignments and tests on post-facto basis and the certificate of inspection may be issued based on the past performance. However, the agencies, shall satisfy themselves that the test which will be carried out on post-facto basis has already been conducted by the exporter/manufacturer and the consignment will be allowed for export provided that the tests carried out by the manufacturer/exporter meets the requirements of the export contract.

आदेश

का.आ. 1684---भारत के निर्यात व्यापार के विकास के लिए आकरी के वर्तन का निर्यात से पूर्व क्वालिटी नियंत्रण तथा निरीक्षण करने के लिए शक्तिपत्र प्रस्ताव निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1961 के नियम-II के उपनियम (2) की ओरशागार, भारत सरकार के वाणिज्य मंत्रालय के आदेश में, का.आ. 3474, तारीख 26 नवम्बर, 1988 के अर्धेन भारत के राजपत्र भाग-2, खंड 3, उपखंड (ii) तारीख 26 नवम्बर, 1988 में प्रकाशित किए गए थे;

इस आदेश के राजपत्र में प्रकाशन की तारीख से 45 दिनों के भीतर उनसे प्रभावित होने वाले सभी व्यक्तियों से अभिप्रेत तथा सुझाव मांगे गए थे;

और उक्त राजपत्र की प्रतियां जनता को 2 दिसम्बर, 1988 को उपलब्ध करा दी गयी थी;

और उक्त आदेश पर जाते से प्राप्त आशयों और सुझावों पर केन्द्रीय सरकार ने विचार कर लिया है;

अतः अब, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 6 द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार की निर्यात निरीक्षण परिषद से परामर्श करने के पश्चात् यह राय होने पर कि भारत के निर्यात व्यापार के विकास के लिए ऐसा करना आवश्यक तथा समीचीन है भारत सरकार के वाणिज्य मंत्रालय की अधिसूचना में, का.आ. 2333 तारीख 12 जून, 1969 को अधिसूचना करते हुए, इसके द्वारा :

प्रस्ताव

(1) यह अधिसूचित करती है कि आकरी के वर्तन निर्यात से पूर्व क्वालिटी नियंत्रण और निरीक्षण के अधीन होंगे।

(2) निम्नलिखित को ---

(1) राष्ट्रीय तथा अन्तर्राष्ट्रीय मानकों को, और

(2) उपाधेय में यथा निर्दिष्ट न्यूनतम विनिर्देशों के अधीन रहने हुए, ऐसे सविधानमक विनिर्देशों को, जो केना और विज्ञान के बीच करार पाए जाएं, ऐसे आकरी के वर्तनों के लिए मानक विनिर्देशों के रूप में मान्यता देती है।

(3) आकरी के वर्तनों का निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1989 के अनुसार क्वालिटी नियंत्रण और निरीक्षण के प्रकार को ऐसे क्वालिटी नियंत्रण और निरीक्षण के प्रकार के रूप में निर्दिष्ट करती है जो निर्यात से पूर्व ऐसे आकरी के वर्तनों को लागू होगा।

(4) ऐसे आकरी के वर्तनों के अन्तर्राष्ट्रीय व्यापार की दशा में, निर्यात को तब तक प्रतिषिद्ध करती है, जब तक कि उसके प्रत्येक परीक्षण के साथ, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 के अधीन स्थापित अभिकरणों में से किसी एक द्वारा निर्यात के लिए जारी किया गया निरीक्षण प्रमाणपत्र न लगा हो।

3 इस आदेश की कोई भी बात, भावी क्रेताओं को भत्ता, समुद्री या वायु मार्ग द्वारा आकरी के वर्तनों के वार्षिक नमूनों के निर्यात को तब तक लागू नहीं होंगे, जब तक कि ऐसे नमूनों का पोत पर्यन्त निःशुल्क मूल्य 500 रु. से अधिक न हो।

4 इस आदेश में "आकरी के वर्तन" से शून्य कनासमक वर्तनों से भिन्न सभी प्रकार के आकरी के वर्तन अर्थात् मिट्टी के वर्तन, पत्थर के वर्तन, अच्छी मिट्टी के वर्तन, बोन चाँदी और चाँदी मिट्टी के वर्तन अभिप्रेत है।

5 यह आदेश राजपत्र में प्रकाशन की तारीख को प्रवृत्त होगा।

उपबन्ध

आकरी के वर्तनों के लिए न्यूनतम विनिर्देश :

1. सामग्री :

1.1 मिट्टी के वर्तन/पत्थर के वर्तन-आकरी के वर्तन, मिट्टी के वर्तन/पत्थर के वर्तनों की क्वालिटी का सफेद चीनी मिट्टी के पके हुए वर्तन में होंगे, ये समुचित रूप से परिपक्व शीतागार पदार्थ से ढके होंगे और बाँधी से पूरी तरह से चिपके होंगे। बाँधी एक रूप, घनीभूत, अच्छी तंतु रचना से बनी दिखाई देगी। शीतागार एक रंग अश्वेश्व और यथासंभव चाक्षुष दोषों से मुक्त होगी।

1.2 अच्छी चीनी/बोन चीनी मिट्टी-आकरी के वर्तन, बोन चीनी क्वालिटी की शक्तिपत्र श्वेत मिट्टी के पके हुए सफेद वर्तन होंगे, उपयुक्त रूप से तैयार किए गए शीशे से ढके हुए और बाँधी से चिपके होंगे। बाँधी एक रूप घनीभूत अच्छी तंतु रचना अच्छी काचित से बनी दिखाई देंगे। सामग्री उच्चतम पारदर्शी होगी। यह सजावटनतः दूधिया, सफेद रंग की होगी। किसी अन्य रंग की दशा में, पूरा सैट एक समान रंग का होगा।

1.3 उष्माशीली चीनी मिट्टी के वर्तन-सामग्री पारमिनेन क्वालिटी की ज्वलित चीनी मिट्टी के सफेद वर्तन की होंगी और उपयुक्त रूप से तैयार किए गए शीशे से ढके हुए और बाँधी से चिपके होंगे। बाँधी एक रूप घनीभूत अच्छी तंतु रचना अच्छी काचित से बनी दिखाई देगी। शीतागार चमक, समान रंग, अश्वेश्व और यथासंभव चाक्षुष दोषों से मुक्त होगी।

2. कारीगरी :

2.1 सैट में आकरी के वर्तनों की सभी जड़ें साधारणतः एक जैसे डिजाइन, रंग और सजावट की होनी चाहिए।

2.2 रूप बिना हिंजे डूबे प्लेट के बीच में स्थिर रहेगा।

2.3 हैंडल जहाँ कहीं उसकी व्यवस्था है अन्य स्थान पर नहीं होगा।

2.4 बोंच या टोंटी इस प्रकार डिजाइन की बनी होगी कि तरल पदार्थ डालते समय वर्तन की सहाय से गिरने पर हथका उठाने में गिर सके।

2.5 कसक जहाँ प्रयुक्त हों, अच्छी तरह से फिट होगा और तरल पदार्थों को डालने समय नीचे नहीं गिरेगा।

3. फिनिश :

3.1 हैनो वर्तनों की आलेखित सतह (निखरा रिफ) के सिवाय सर्वों को समस्त सतह को एकरा और निरंतर कठोर अपारगम्य शीशे से आच्छादित किया जाएगा, जो सफाई योग्य हो और क्वालिटी को बनाए रखे। इसके अतिरिक्त हैनो वर्तनों से भिन्न सर्वों की आलेखित सतह संरचना में अवधारणी होगी।

3.2 शीतागार सतह दोनों अर्थात् कड़, रगड़, धब्बे अंगुली छापों से मुक्त होगी।

4. चाकुरी निर्माण :

4.1 चाकुरी बर्तनों का चाकुरी निर्माण और अपेक्षित नोचे लिए गए दोषों की प्रकृति संख्या और वितरण के आधार पर किया जाएगा।

मुख्य दोष :

1. दरारें,
2. 0.8 मि.मी. और उससे अधिक ग्राह के,
3. शीमागार पीपले के चिन्ह, 0.8 मि.मी. और सतह पर 2 से अधिक।
4. यदि चमक रहित रहती है, तो किलारे पर 2 मि.मी. और पैर पर 3.5 मि.मी. से अधिक की चिप,
5. सतहों पर 0.8 मि.मी. से बड़े पिन छिद्र,
6. सतह पर 3 से अधिक 5 मि.मी. व्यास के रंग या धब्बे गुच्छों में नहीं पीछे की ओर सतह पर से 5 से अधिक।
7. सतह पर चमक न आना,
8. सामान्य विमाओं का 5 प्रतिशत से अधिक मिलवटें या टेढ़ापन,
9. सजावट का न होना,
10. सतह पर गहरे।

छोटे दोष :

1. सतह पर 3 तक और पृष्ठ भाग पर 5 तक 0.8 मि.मी. तक के आकार के ग्रेग।
2. शीमागार से ठकी दरारें, पृष्ठ भाग पर 2 मि.मी. से अधिक नहीं होंगी,
3. शीमागार पिमाई के चिन्ह 0.8 मि.मी. माप के सतहों पर 2 तक तथा पृष्ठभाग पर 4 से अधिक 0.8 मि.मी. के,
4. किलारों पर 2 मि.मी. से अधिक और पैरों पर 3.5 मि.मी. चिप आदि चमकदार हो या शीमागार से ठकी हो,
5. बड़े पिन छिद्र 0.8 मि.मी. 2 से अधिक पीछे की ओर पृष्ठभाग की ओर,
6. पिन छिद्र 0.5 मि.मी. सतहों पर 5 तक और पृष्ठभाग की ओर 7 तक परन्तु गुच्छों में नहीं,
7. 5 मि.मी. सतहों पर 5 तक और पृष्ठभाग की ओर 7 तक 5 मि.मी. व्यास तक रंग के धब्बे, गुच्छों से नहीं,
8. पृष्ठीय सतह पर चमक के बिना 2 मि.मी. तक।
9. सजावट के धब्बे।
10. कोई भी हल्की चमक या धुंधली चमक।

जिस बर्तन पर मुख्य त्रुटियां होंगी उस बर्तन को त्रुटिपूर्ण माना जाएगा, और फिर किसी भी बर्तन पर उने अधिक छोटे-छोटे दोष होंगे उसे त्रुटिपूर्ण माना जाएगा।

टिप्पण :—दोषों का बड़ी धार्य होगा जो उसके लिए भा.मा. 2781-1975 चीनी मिट्टी के बर्तनों से संबंधित निबंधनों को शब्दावली में दिया गया है।

5. सीसा छुड़ाना :

5.1 चमकदार सतहों से सीसा छुड़ाना 2 पी पी एस से अधिक नहीं होगा जब मुसंगत भारतीय मानकों में विहित प्रणाली के अनुसार या जब संश्लेष विनिर्देशों एम सी सक्षीय प्रदाय सेवा (सं.रा.प्र.) द्वारा चीनी मिट्टी के बर्तन मेज बर्तन द्वारा परीक्षित किए जाएं।

6. सापेक्षी प्रतिरोधिता :

6.1 चाकुरी के बर्तनों की वस्तुएं मिट्टी के बर्तन/पत्थर के बने बर्तनों के मानकों में 150° से. डेड पर थर्मल दबाव सहन करेंगे। पॉसिलेन बर्तनों के लिए फाईन चर्टा तथा बोत चाईना 120° से. डे. पर गुंगत भारतीय मानकों के अनुसार परीक्षित हों।

7. जन अवशोषण :

7.1 जब टूटे हुए बर्तनों के टुकड़े मुसंगत भारतीय मानकों के अनुसार परीक्षित किए जाएं, तब बर्तनों के एक नमूना यूनिट के लिए जन अवशोषण का औसत मूल्य निम्नलिखित शर्तों से अधिक नहीं होगा :

मिट्टी के बर्तन	— अधिकतम 10 प्रतिशत
पत्थर से बने बर्तन	— अधिकतम 3 प्रतिशत
फाईन चाईना/बोत चाईना	— अधिकतम 0.5 प्रतिशत
पॉसिलेन के बर्तन	— 0.2 प्रतिशत उस बर्तन के लिए जिसकी विमाएं अधिकतम 25 से. मी. तक हों :
	— 0.5 प्रतिशत उस बर्तन के लिए जिसकी अधिकतम विमाएं 25 से. मी. से अधिक हों।

8. संघात प्रबलता और चिर्क प्रतिरोधिता :

8.1 जब मुसंगत भारतीय मानकों में विहित प्रणालियों के अनुसार पैकडल प्रकार के संघात पराधक द्वारा परीक्षण किया जाए तब चीनी मिट्टी के बर्तनों का संघात प्रबलता और चिर्क प्रतिरोधिता परीक्षित क्रमण : बर्तनों के सामने दिखाए गए निम्नलिखित आधकों से कम नहीं होगा :

मिट्टी के बर्तन	: 0.22 एन एम तथा 0.2 एनएम और पत्थर के बर्तन
फाईन चाईना/बोत चाईना	0.267 एनएम तथा 0.14 एन.एम.
पॉसिलेन के बर्तन	0.19 एन एम तथा 0.20 एनएम

9. फेक्टिंग :

9.1 जब, मुसंगत भारतीय मानकों के अनुसार परीक्षित हों, तब वस्तुएं फाईन चाईना और बोत चाईना के लिए मिट्टी के बर्तन और पत्थर के बर्तनों के मानकों में तीन चक्करों के पश्चात सतह चटकाव नहीं दिखाएंगे।

10. निन्ह और पैकिंग :

10.1 चाकुरी के बर्तन, निर्माण निरीक्षण पण्डित द्वारा समय समय पर विहित किए गए, मानकों के अधीन रहते हुए, क्रेता और निर्रेता के बीच करार पाए के अनुसार चिन्हित और पैक किए जाएंगे।

[फाईन सं. 6 (3) / 83 ई आई एंड ई पी]

ORDER

S.O. 1684.—Whereas for the development of the export trade of India certain proposals for subjecting Crockeryware to quality control and inspection prior to export were published as required by sub-rule (2) of rule 11 of the Export (Quality Control and Inspection) Rules, 1964 in the Gazette of India Part-II, Section 3, sub-section (ii) dated the 26th November, 1988 under the Order of the Government of India in the Ministry of Commerce No. S.O. 3474 dated the 26th November, 1988,

And whereas objections and suggestions were invited from all persons likely to be affected thereby within 45 days of the publication of the said Order in the Official Gazette :

And whereas the copies of the said Gazette were made available to the public on the 2nd December, 1988 ;

And whereas the objections and suggestions received from the public on the said draft proposals have been considered by the Central Government ;

Now, therefore, the Central Government after consultation with the Export Inspection Council being of opinion that it is necessary and expedient so to do for the development of the export trade of India in exercise of the power conferred by Section 6 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963) and in supersession of the notification of the Government of India in the Ministry of Commerce No. S.O. 2333 dated 12 June, 1969, hereby :

(1) notify that crockeryware shall be subjected to quality control and inspection prior to export ;

(2) recognise—

(i) National or International Standards ; and

(ii) Contractual specifications as agreed to between the buyer and the seller subject to the minimum specifications as referred to in Annexure—as the standard specification for such crockeryware.

(3) Specifies the type of quality control and inspection in accordance with the export of Crockeryware (Quality Control and Inspection) Rules, 1989 as the type of quality control and inspection which shall be applied to such Crockeryware prior to export.

(4) To prohibit the export in the case of international trade of such crockeryware unless every consignment thereof is accompanied by an inspection certificate for export issued by any one of the Agencies established under section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963).

3. Nothing in this Order shall apply to the export by land, sea or air of bonafide trade samples of crockeryware to the prospective buyers, provided that the f.o.b. value of such samples do not exceed Rs. 500.

4. In this order "Crockeryware" shall mean, all types of crockeryware namely earthenware, stoneware, fine china, bone china, and porcelainware, other than artware.

5. This Order shall come into force on the date of its publication in the Official Gazette.

ANNEXURE

MINIMUM SPECIFICATION FOR CROCKERYWARE

1. Materials

1.1 Earthenware/stoneware—The crockeryware shall be fired ceramic whiteware of earthenware/stoneware quality, covered by glaze properly matured and fitted to the body. The body shall show upon fracture dense, homogenous fine-grained texture. The glaze shall be of uniform colour, impervious and as free from visual defects as possible.

1.2 Fine China/Bone China—The crockeryware shall be fired vitrified ceramic whiteware, of bone china quality covered by a glaze properly matured and fitted to the body. The body shall show, upon fracture, dense, homogeneous and fine-grained vitrified texture. The material shall be highly translucent. It shall be generally of milky white colour. In the case of any other colour, the full set shall be of one uniform colour.

1.3 Porcelain crockeryware—The material shall be fired ceramic whiteware of porcelain quality, covered by glaze properly matured and fitted in the body. The body shall show upon fracture a dense, homogeneous vitrified texture. The glaze shall be of uniform colour, impervious and as free as possible from visual defects.

2. Workmanship

2.1 All items of crockeryware in a set should be generally of a matching design, colour and decoration.

2.2 The cup shall rest in the middle of the saucer without rocking or spinning.

2.3 The handle, where provided, shall not be misplaced.

2.4 The lip or spout shall be so designed that liquids may not trickle down the sides of the ware, while pouring.

2.5 The lid, where used, shall fit properly and shall not fall down while pouring out liquids.

3. Finish

3.1 Except for the resting surface (bottom rim of the hollow ware, the entire surface of items shall be covered by a uniform and continuous hard impervious glaze, which is cleanable and retains this quality. In addition, resting surface of the items other than hollow ware shall be non-abrasive in texture.

3.2 The glazed surface shall be free from defects namely glaze crawling, patches and finger prints.

4. Visual Assessment

4.1 Visual assessment and grading of crockeryware shall be done on the basis of the nature/number and distribution of defectives given below :

Major Defects

(1) Cracks

(2) Grog of size 0.8 mm and more

(3) Glaze grinding mark, side 0.8 mm and more than 2 on surface.

(4) Chip of more than 2 mm on edge and 3.5 mm on foot, if remaining unglazed.

(5) Pin holes, larger than 0.8 mm on surface.

(6) Colour spots 0.5 mm dia, more than 3 on surface, not in cluster and more than 5 on backside.

(7) Glaze off on surface.

(8) Warpage or crock—edness more than 5% of normal dimensions.

(9) Decorations misplaced.

(10) Blisters on surface.

Minor Defects

(1) Grog on size upto 0.8 mm upto 3 on surface and upto 5 on backside.

(2) Cracks, covered with glaze, not more than 2 mm on backside.

(3) Glaze grinding mark size 0.8 mm upto 2 on surface and not more than 4 on back side.

(4) Chip of more than 2 mm on edge and 3.5 mm on foot if remaining glazed or covered with glaze.

(5) Large pin hole, 0.8 mm, not more than 2 backside.

(6) Pin holes 0.5 mm upto 5 on surface and upto 7 on backside, but not in cluster.

(7) Colour spot upto 0.5 mm dia, not more than 5 on surface and 7 on backside, but not in cluster.

(8) Glaze off on back surface, upto 2 mm.

(9) Smudged decorations.

(10) Any light glaze or mattish glaze.

Any ware having a major defect shall be termed as defective. Further, any ware having more than 3 of the minor defects shall be termed as defective.

Note :—The defects shall have same meaning as given in IS : 2781-1975-Glossary of terms relating to ceramicware.

5. Release of Lead

5.1 Release of lead glazed shall not be more than 2 ppm when tested in accordance with the method prescribed

in the relevant Indian Standards or when tested as per Federal Specifications MC-301E-Chinaware Tableware issued by the Federal Supply Service (USA).

6. Thermal Shock Resistance

6.1 Items of crockeryware shall withstand thermal shock of 150°C in case of earthenware/stoneware, fine china and bone china and 120°C for porcelainware, when tested as per the relevant Indian Standards.

7. Water Absorption

7.1 When pieces of broken ware are tested as per the relevant Indian Standards, the average value of water absorption for a sample unit of ware shall not exceed the following figures :

Earthenware—10% Max.

Stoneware—3% Max.

Fine China/Bone China—0.5 per cent Max.

Porcelainware—0.2% for ware having a Max. dimension upto 25 cm.

—0.5% for ware having a Max. dimension of more than 25 cm.

8. Impact Strength and Chipping Resistance

8.1 The impact strength and chipping resistance of items of crockeryware when tested by the pendulum type impact tester in accordance with the methods prescribed in the relevant Indian Standards shall not be less than the following figures as shown against the respective type of wares :

Earthenware and Stoneware—0.22 N.m. and 0.2 N.m.
Fine China/Bone China—0.267 N.m. and 0.4 N.m.

Porcelainware—0.19 N.m. and 0.20 N.m., ,

9. Crazing

9.1 When tested in accordance with relevant Indian Standards, the articles shall show no crazing after undergoing three cycles in case of earthenware and stoneware and five cycles for the china and bone china.

Note.—Crazing not prescribed for porcelainware.

10. Marketing and Packing

10.1 The crockeryware shall be marked and packed as agreed to between the purchaser and the seller subject to any minimum standard prescribed by Export Inspection Council from time to time.

[File No. 6(3)/88-EI&EP]

का. आ. 1685—निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 की धारा 17 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तथा काकरी के बर्तनों के निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1969 का अधीक्षण करते हुए केन्द्र सरकार निम्नलिखित नियम बनाती हैं, अर्थात् :—

1. संक्षिप्त नाम और प्रारम्भ :— (i) इन नियमों का संक्षिप्त नाम काकरी के बर्तनों का निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1989।

(ii) ये राजपत्र में अंतिम प्रकाशन की तारीख को प्रवृत्त होंगे।

2. परिभाषाएँ :— इन नियमों में, जब तक कि संदर्भ से अन्यथा अपेक्षित न हो :—

(क) "अधिनियम" से निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) अभिप्रेत

(ल) "परिषद" से अधिनियम की धारा 3 के अधीन स्थापित निर्यात निरीक्षण परिषद अभिप्रेत है ;

(ग) "अभिकरण" से अधिनियम की धारा 7 के अर्थात् स्थापित निर्यात निरीक्षण अभिकरणों में से कोई एक अभिकरण अभिप्रेत है , ,

(घ) "काकरी के बर्तन" से सभी प्रकार के काकरी के बर्तन अर्थात् मिट्टी के बर्तन, पत्थर के बर्तन, अच्छी चीनी मिट्टी के बर्तन, बोन चाईना और कलात्मक बर्तनों से भिन्न चीनी मिट्टी के बर्तन अभिप्रेत है ,

(ङ) "उत्पादन के दौरान क्वालिटी नियंत्रण" (जिसे इसमें इसके पश्चात् आई पी क्यू सी कहा गया है) से क्वालिटी नियंत्रण का वह प्रणाली अभिप्रेत है जिसके द्वारा कोई विनिर्माणकारी एकक यह सुनिश्चित करना है कि काकरी के बर्तन, सामग्री और संघटकों के क्रय, विनिर्माण निरीक्षण, परीक्षण और पैकिंग के विभिन्न प्रक्रमों पर नियंत्रणों का प्रयोग करते हुए मानक विनिर्देशों के अनुरूप परिषद द्वारा यथा अधिकथित ढंग से विनिर्मित किए गए हैं :

(च) "परीक्षणानुसार निरीक्षण" से यह वह अवधारण करने की प्रक्रिया अभिप्रेत है कि क्या निर्यात के लिए आशयित काकरी बर्तनों की कोई परीक्षण द्वारा यथाअधिकथित रीति में अभिकरण द्वारा निरीक्षण और परीक्षण करने पर मानक विनिर्देशों का अनुपालन करता है ,

(छ) "अनुमोदित यूनिट" से उत्पादन के दौरान क्वालिटी नियंत्रण की अपेक्षाओं का समाधान करते हुए अभिकरण द्वारा अनुमोदित कोई विनिर्माणकारी यूनिट अभिप्रेत है .

(ज) "कालिक दौरा" से अभिकरण के अधिकारियों द्वारा अनुमोदित यूनिट में अंतरालों पर उत्पादन के दौरान क्वालिटी नियंत्रण की अपेक्षाओं के अनुपालन को सुनिश्चित करने के लिए किए गए दौरे अभिप्रेत हैं, और

(झ) "स्थल पर जांच" से किसी भी निर्यात परीक्षण के अभिकरण द्वारा परिषद द्वारा यथा अधिकथित रीति से मानक विनिर्देशों की अनुरूपता सुनिश्चित करने के लिए किया गया कोई निरीक्षण अभिप्रेत है।

3. निरीक्षण का आधार :— निर्यात के लिए आशयित काकरी के बर्तनों का निरीक्षण यह देखने की दृष्टि से किया जाएगा कि वे अधिनियम की धारा 6 के अधीन केन्द्रीय सरकार द्वारा मान्यता प्राप्त मानक विनिर्देशों के अनुरूप हैं :

(i) यह सुनिश्चित करते हुए कि उत्पादों का विनिर्माण उत्पाद के दौरान क्वालिटी नियंत्रण और निरीक्षण प्रणाली के अंतर्गत आने वाली यूनिटों की वास्तव इस अधिसूचना के परिशिष्ट-क में यथा विनिर्दिष्ट उत्पादन के दौरान आवश्यक क्वालिटी नियंत्रण का प्रयोग करते हुए किया गया है।

या

(ii) परीक्षणानुसार निरीक्षण की प्रणाली के अंतर्गत आने वाली यूनिटों की वास्तव इन नियमों के परिशिष्ट ख में विनिर्दिष्ट रीति से किए गए निरीक्षण और परीक्षण के आधार पर।

4. निरीक्षण की प्रक्रिया :— (i) ऐसा कोई निर्यातकर्ता जो काकरी के बर्तनों के परीक्षणों का निर्यात करने का इच्छुक है, अभिकरण को नियम 3 के उपबंधों के अनुसार निरीक्षण करने में समर्थ बनाने के लिए निर्यात सन्विदा या आदेश की एक प्रति के साथ सन्विदात्मक विनिर्देशों का समीक्षा देते हुए अभिकरण को लिखित रूप में सूचना देगा।

(2) परिशिष्ट-क में अधिकथित दृष्टान्त उत्पादन के दौरान क्वालिटी नियंत्रण का प्रयोग करते हुए और इस प्रयोग के लिए परिषद द्वारा गठित विशेषज्ञों के पैनल द्वारा उत्पादन के दौरान पर्याप्त क्वालिटी नियंत्रण इकाई की व्यवस्था रखने वाले विनिर्माण एकक में

विनिर्मित आकरी के वर्तनों का निर्माण करने के लिए, निर्माताकता उपनियम (2) में उल्लिखित सूचना के साथ यह घोषणा भी देगा कि निर्माण के लिए अधिस्थित आकरी के वर्तनों का परेण परिणित-क म यथा अधिस्थित पर्याप्त क्वालिटी नियंत्रण का प्रयोग करते हुए, विनिर्मित किया गया है, और परेण इस प्रयोजन के लिए मान्यता प्राप्त मानक विनिर्देशों के अनुरूप है।

(3) निर्माताकता अधिकरण को, निर्माण किए जाने वाले परेण पर लगाए जाने वाले पहचान चिह्न भी देगा।

(4) ऊपर उपनियम (1) के अधीन प्रत्येक सूचना निर्माता के परिसर से भेजे जाने से कम से कम सात दिन पहले देा जाएगी, जब कि उपनियम (2) के अधीन घोषणा के साथ सूचना की दशा में से निर्माता के परिसर से परेण क भेजे जाने से कम से कम तीन दिन पूर्व दी जाएगी।

(5) उपनियम (1) के अधीन सूचना और उपनियम (2) के अधीन घोषणा यदि कोई हो, के प्राप्त होने पर, अधिकरण:—

क. (i) विनिर्माण की प्रक्रिया के दौरान आना यह समाधान हो जाने पर कि विनिर्माता ने परिणित क में अधिस्थित पर्याप्त क्वालिटी नियंत्रणों का प्रयोग किया है और, इस प्रयोजन के लिए मान्यता प्राप्त मानक विनिर्देशों के अनुरूप उत्पाद का विनिर्माण करने के संबंध में परिषद या अधिकरणों द्वारा जारी किए गए निर्देशों का, यदि कोई हो, पालन किया गया है, तीन दिन के भीतर यह घोषणा करते हुए प्रमाण-पत्र जारी कर देगा कि आकरी के वर्तनों का परेण निर्माण योग्य है।

(ii) ऐसी दशा में जहाँ विनिर्माता निर्माताकता नहीं है, तथापि परेण का वास्तविक स्थापन किया जाएगा ऐसा स्थापन तथा निरीक्षण यदि आवश्यक हो तो, अधिकरण द्वारा यह सुनिश्चित करने हुए किया जाएगा कि उचित शर्त का पालन हुआ है।

(iii) अधिकरण, निर्माण के लिए प्राणित कृष्ट परेणों की स्थल पर आंच करेगा और एकक द्वारा अपनाए गए उत्पादन के दौरान क्वालिटी नियंत्रण कृष्टों की पर्याप्तता को बनाए रखने का, स्थापन करने के लिए नियमित अंतरालों पर विनिर्माणकारी एककों का दौरा करेगा।

(iv) यदि विनिर्माण एककों में यह पाया जाता है कि उनमें विनिर्माण के किसी भी प्रक्रम पर अधिस्थित क्वालिटी नियंत्रण उपायों का पालन नहीं किया गया है या परिषद या अधिकरण की विचारिशों का पालन नहीं किया गया है तो यह घोषित किया जाएगा कि यूनिट के पास उत्पादन के दौरान पर्याप्त क्वालिटी नियंत्रण कृष्टें नहीं हैं और ऐसे मामलों में, यदि यूनिट ने ऐसी वांछा की है, तो, यूनिट उत्पादन के दौरान पर्याप्त क्वालिटी नियंत्रण की व्यवस्था को बनाए रखने के समायोजन के लिए नया आवेदन देगा।

ख. ऐसी दशा में, जहाँ निर्माताकता, नियम-4 के उपनियम (2) के अधीन यह घोषित नहीं करता है कि परिणित क में अधिस्थित पर्याप्त क्वालिटी नियंत्रण का प्रयोग किया गया है अपना यह समाधान कर लेने पर कि आकरी के वर्तनों का परेण इस प्रयोजन के लिए मान्यता प्राप्त मानक विनिर्देशों के अनुरूप हैं, परिणित ख में यथा अधिस्थित किए गए निरीक्षण करने के सात दिनों के भीतर यह घोषणा करने हुए प्रमाणपत्र जारी करेगा कि परेण निर्माण योग्य है।

परन्तु जहाँ अधिकरण का ऐसा समाधान नहीं होता है तो यहाँ यह उक्त सात दिन/तीन दिन की अवधि के भीतर निर्माताकता को प्रमाणपत्र जारी करने से इंतजार कर देगा और ऐसे दंगार को सूचना उसके कारणों सहित निर्माताकता को देगा।

ग. (i) ऐसी दशा में जहाँ विनिर्माता उपनियम (5) (क) के पर्याप्त नियंत्रणों को नहीं दे या परेण का उपनियम (5) (ख) के प्रयोग निरीक्षण किया गया है यथा अधिकरण निरीक्षण की समिति के द्वारा परेण परेण में पैकेजों की इस रीति में सीलबंद किया जाएगा जिसमें सीलबंद पैकेजों में रद्दोद्भव न की जा सके।

(ii) परेण के ध्वजीकृति की दशा में, यदि निर्माताकता ऐसा चाहे तो परेण अधिकरण द्वारा सीलबंद नहीं किया जाएगा परन्तु ऐसी दशा में निर्माताकता ध्वजीकृति के विरुद्ध अपील करने का हकदार नहीं होगा।

5. निरीक्षण का स्थान:— इन नियमों के अधीन प्रत्येक निरीक्षण या तो (क) ऐसे उत्पादन के विनिर्माता के परिसरों पर या (ख) ऐसे परिसरों पर, जहाँ निर्माताकता द्वारा निरीक्षण के लिए भाल प्रस्तुत किया जाता है किया जाएगा, परन्तु यह तब जब कि यहाँ इस प्रयोजन के लिए पर्याप्त सुविधाएँ विद्यमान हों।

6. निरीक्षण फीस:— निर्माताकता द्वारा अधिकरण को निम्नानुसार निरीक्षण फीस संवत्न की जाएगी:—

(i) (क) उत्पादन के दौरान क्वालिटी नियंत्रण के अनुरूप निर्माण के लिए न्यूनतम 20 रु. प्रति परेण के अधीन रहने हुए, पात्र पर्याप्त निशुल्क मूल्य के 0.2 प्रतिशत की दर पर।

(ख) परेणानुसार निरीक्षण के अधीन निर्माण के लिए न्यूनतम 20 रु. प्रति परेण के अधीन रहने हुए, पात्र पर्याप्त तथा शुल्क मूल्य के 0.4 प्रतिशत की दर पर।

(ii) प्रति परेण न्यूनतम 20 रु. के अधीन रहने हुए (क) तथा (ख) के लिए क्रमशः 0.18 प्रतिशत और 0.36 प्रतिशत की दर पर उन निर्माताकताओं के लिए जो, राज्यों/संघ राज्य क्षेत्रों की संबंधित सरकारों के साथ संपु उद्योग विनिर्माण मृष्टियों के रूप में रजिस्ट्रीकृत हैं।

7. अपील:— (1) नियम-4 के उपनियम (5) के अधीन प्रमाण-पत्र जारी करने से इंतजार किए जाने से व्यक्ति कोई व्यक्ति ऐसे दंगार की सूचना प्राप्त होने के दस दिनों के भीतर केन्द्रीय सरकार द्वारा स्थापित ऐसे विशेषज्ञों के पैनल की अपील कर सकेगा जो तीन से दस तक किन्तु मान से अधिक व्यक्तियों में मिलकर बना हो।

(2) विशेषज्ञों के पैनल की कल सम्मति के कम से कम दो तिहाई सदस्य गैर सरकारी होंगे।

(3) विशेषज्ञों के पैनल की गणपूर्ति तीन से होगी।

(4) अपील का निपटारा इसके प्राप्त होने के पन्द्रह दिन के भीतर कर दिया जाएगा।

[फा. सं. 6 (3) / 88 ई आई एण्ड ई पी]

ग. के. जीवरी, निदेशक

परिणित-क

उत्पादन के दौरान क्वालिटी नियंत्रण:— निर्माण के लिए प्राणित आकरी के वर्तनों का क्वालिटी नियंत्रण यह देखने की दृष्टि से किया जाएगा कि, विनिर्माण के विभिन्न प्रक्रमों पर निम्नलिखित नियंत्रणों का प्रभावी बहाल हुए विनिर्मित किए गए हैं, और ये अधिनियम की धारा 6 के अधीन केन्द्रीय सरकार द्वारा मान्यता प्राप्त मानक विनिर्देशों के अनुरूप हैं, अर्थात्:—

अथ की गयी गामरी और संघटन निरीक्षण:

(क) विनिर्माता द्वारा प्रत्येक किए गए सघटनों की समीक्षा को समाविष्ट करने हुए, यथा विनिर्देश अतिवर्धित किए जाएंगे और चार्ज वाले

लॉटों की अनुसूचना सुनिश्चित करने के लिए निरीक्षण या परीक्षण के पर्याप्त साधन होंगे।

(ख) स्वीकृत पर्येषणों के साथ जहां तक संभव हो, या ताँ त्रय विनिर्देशों की अपेक्षाओं को समाविष्ट करते हुए प्रदायकर्ता का परीक्षण या निरीक्षण प्रमाण-पत्र होगा, जिसमें विनिर्माता द्वारा विशेष प्रदायकर्ता के लिए एक आवेदनपत्रों में (अर्थात् उसी सामग्री के उसी प्रदाय के लिए वर्ष के प्रत्येक निमाह में एक बार) उपरोक्त कथित निरीक्षण या परीक्षण प्रमाण-पत्र की श्रद्धा को सत्यापित करने के लिए की जाएगी, या त्रय की गयी सामग्री या संघटकों का नियमित रूप में केकटरी की प्रयोगशाला में या किसी अन्य प्रयोगशाला या परीक्षण भवन में निरीक्षण या परीक्षण किया जाएगा।

(ग) किए जाने वाले निरीक्षण या परीक्षण के लिए नमूना लेना अभिलिखित अनुपेक्षाओं पर आधारित होगा।

(घ) निरीक्षण या परीक्षण करने के पश्चात् स्वीकृत और अस्वीकृत सामग्री या संघटकों के पुनर्करण में और अस्वीकृत सामग्री या संघटकों का निपटान करने के लिए व्यवस्थित पद्धति अपनई जाएगी।

(ङ) उपरोक्त वर्णित नियंत्रणों के संक्षेप में विनिर्माता द्वारा पर्याप्त अभिलेख नियमित तथा व्यवस्थित रूप से रखे जाएंगे।

(ii) प्रक्रिया नियंत्रण :

(क) विनिर्माता द्वारा विनिर्माण की विभिन्न प्रक्रियाओं के लिए व्यवहार प्रक्रिया विनिर्देश अधिकृत किए जाएंगे।

(ख) त्रय विनिर्देशों में अधिकृत के अनुसार प्रक्रियाओं पर नियंत्रण रखने के लिए पर्याप्त उपकरण उपकरण सुविधाएं होंगी।

(ग) विनिर्माता द्वारा विनिर्माण की प्रक्रिया के दौरान प्रयुक्त नियंत्रणों की सहायता का स्थापन सुनिश्चित करने के लिए पर्याप्त अभिलेख रखे जाएंगे।

(iii) उत्पाद नियंत्रण :—

(क) विनिर्माता के पास अधिनियम की धारा 6 के अधीन मान्यता प्राप्त विनिर्देशों के अनुसार उत्पाद का परीक्षण करने के लिए या ता स्वयं की परीक्षण सुविधाएं होंगी या उनकी गृहस्थ नहीं तक होंगी जहां कहीं भी ऐसी परीक्षण सुविधाएं विद्यमान हों,

(ख) परीक्षण के लिए नमूना लेना, (जहां कहीं अपेक्षित हो) अभिलिखित अनुपेक्षाओं पर आधारित होगा।

(ग) विनिर्माण द्वारा किए गए परीक्षणों की वास्तव में पर्याप्त अभिलेख नियमित रूप से और व्यवस्थित रूप से रखे जाएंगे।

(iv) परिरक्षण नियंत्रण

(क) विनिर्माता द्वारा उत्पाद को मोसम की दशाओं के प्रतिकूल प्रभाव से बचाने के लिए व्यवहार विनिर्देश अधिकृत किए जाएंगे।

(ख) उत्पाद को पोत खदान के पतन के लिए भण्डारण और अभिलेख दोषों के दौरान पर्याप्त रूप से परिरक्षित किया जाएगा।

(v) मादक संबंधी नियंत्रण उत्पादन तथा निरीक्षण में प्रयुक्त सेवा और उपकरणों की कालिक जांच की जाएगी या उनका समीक्षा किया जाएगा और विनिर्माता द्वारा अभिलेख का दृष्ट काई के रूप में रखा जाएगा।

(vi) वैकल्पिक नियंत्रण :— विनिर्माता, निर्माण के लिए व्यवहार वैकल्पिक विनिर्देश अधिकृत करेगा और उनका कड़ाई से पालन करेगा निर्माण निरीक्षण परिषद द्वारा वित्तित वैकल्पिक के काई को ध्यान में रखा जाएगा।

परिशिष्ट—ख

परीक्षणानुसार निरीक्षण :— मादक विनिर्देशों से शकरी के बर्तनों के परेषण की अनुसूचना अवधारित करने के निम्नलिखित प्रक्रियाओं को अनुसरण किया जाएगा :—

लॉट : किसी परेषण में वैसे ही प्रत्येक के शकरी बर्तनों की सभी वस्तुओं का (जैसे प्याले, पाखों, और प्लेटों) 1000 या इससे कम नमूने के लॉट का गठन करने के लिए एक साथ एकत्रित किया जाएगा विनिर्देशों की अपेक्षाओं में शकरी बर्तनों की अनुसूचना को सुनिश्चित करने के लिए प्रत्येक लॉट से नमूने लिए जाएंगे।

नमूना लेने के मापदंड :— विभिन्न परीक्षणों के लिए चयनित किए जाने वाले शकरी के बर्तनों के नमूनों की संख्या वह होगी जो नीचे की सारणी में दी गयी है। यदि लॉट में शकरी बर्तनों की मदें बहुत से बर्तनों में पैक की जाती हैं तो नमूना मदों का निम्नलिखित रीति से चयन किया जाएगा :—

(क) 5 या कम बर्तनों में पैक किए गए लॉटों के लिए सभी बर्तनों को खोला जाएगा, और

(ख) 5 से अधिक बर्तनों में पैक किए गए लॉटों के लिए, न्यूनतम 5 के अधीन रहने हुए, बर्तनों में यथा कदा 20 प्रतिशत से नमूना लिया जाएगा।

(क) और (ख) दोनों वर्णनों में नमूना मदों की कुल संख्या सारणी के स्तम्भ-2 के अनुसार होगी :

सारणी नमूना लेने के मापदंड

लॉट आकार शकरी और फिनिश तथा संयत प्रबलता और दृश्य निर्धारण के लिए क्षिप्पी प्रतिरोधिता के लिए

नमूना आकार	स्वीकृत आकार	नमूना आकार	स्वीकृत स.	
1	2	3	4	5
100 तक	8	1	3	0
101 से 300	13	1	4	0
301 से 500	20	2	5	0
501 से 1000	32	3	6	0

नमूनों का परीक्षण और अनुसूचना के लिए मापदंड :

क्षिप्य और फिनिश तथा चाक्षुष निर्धारण :—

सारणी के स्तम्भ-2 के अनुसार चयन की गयी शकरी के बर्तनों की मदों का इस आवेष्ट के उपबन्ध 4.1 में द्योतित के अनुसार बड़ी और छोटी लुटियों को विद्यमानता के लिए अलग अलग परीक्षण किया जाएगा। लुटिपूर्ण मदों की संख्या सारणी के स्तम्भ-3 में दी गयी स्वीकृत संख्या से अधिक नहीं होगी, यदि इस खंड के अधीन लॉट को समाधानप्रद रूप में घोषित किया जाता है।

संयत प्रबलता और क्षिप्य प्रतिरोधिता :— इस परीक्षण का प्रत्येक नमूना आकार, सारणी के स्तम्भ-4 में दिए अनुसार होगा नमूना बर्तन उनमें से निकाले जाएंगे जो इस खंड के अधीन समाधान प्रद रूप में घोषित किए हैं।

अन्य परीक्षण :— एक परीक्षण महत्त्व चटकन सीसा धुलनशीलता, अवशोषणता और ताप आधान प्रतिरोधिता के लिए किया जाएगा। उक्त प्रयोजन के लिए, नमूनों का अपेक्षित संख्या में लॉट में से यथायक चुना जाएगा। यदि इन सभी परीक्षणों में कोई असफलता गता नहीं बनती है तो लॉट का समाधानप्रद रूप में समझा जाएगा।

S.O. 1685.—In exercise of the powers conferred by Section 17 of the Export (Quality Control and Inspection) Act, 1963 and in supersession of the Export of Crockeryware (Quality Control and Inspection) Rules, 1969, the Central Government hereby makes the following rules, namely :—

1. Short title and commencement.—(i) These rules may be called the Export of Crockeryware (Quality Control and Inspection) Rules, 1989.

(ii) These shall come into force on the date of their final publication in the Official Gazette.

2. Definitions.—In these rules, unless the context otherwise requires :—

- (a) "Act" means, the Export (Quality Control and Inspection) Act, 1963 (22 of 1963) ;
- (b) "Council" means, the Export Inspection Council established under Section 3 of the Act ;
- (c) "Agency" means, any one of the Export Inspection Agencies established under Section 7 of the Act ;
- (d) "Crockeryware" shall mean, all types of crockeryware namely earthenware, stoneware, fine china, bone china and porcelainware other than artware.
- (e) "Inspection Quality Control" (hereinafter also referred to as IPQC) means a system of quality control by which a manufacturing unit ensure that crockeryware are manufactured to conform to the standard specifications by exercising controls at different stages of purchase of materials and components, manufacture, inspection, preservation and packing, in a manner as laid down by the Council ;
- (f) "Consignmentwise Inspection" means the process of determining whether a consignment of crockeryware meant for export complies with the standard specifications, by inspection and testing by the Agency in a manner as laid down by the Council ;
- (g) "Approved Unit" means a manufacturing unit approved by the Agency as having satisfied the requirements of IPQC ;
- (h) "Periodic Visit" means a visit made by officer(s) of the Agency to the approved unit at intervals to ensure compliance of the requirements of IPQC in the unit ; and
- (i) "Spot Check" means an inspection by the Agency of an export consignment to ensure its conformity to the standard specifications in a manner as laid down by the Council.

3. Basis of inspection.—Inspection of crockeryware intended for export shall be carried out with a view to seeing that the same conforms to the standard specifications recognised by the Central Government under section 6 of the Act ;

- (i) by ensuring either that the products have been manufactured by exercising necessary in-process quality control as specified in Appendix-A to this notification in respect to units coming under in-process quality control system of inspection ; or
- (ii) on the basis of inspection and testing carried out in the manner specified in Appendix-B to these rules in respect of units coming under consignmentwise system of inspection.

4. Procedure of Inspection.—(1) An exporter intending to export a consignment of crockeryware shall give an intimation in writing to the Agency furnishing therein details of the contractual specifications alongwith a copy of the export contract or order to enable the Agency to carry out inspection in accordance with the provision of rule 3.

(2) For export of crockeryware manufactured by exercising adequate inprocess quality control as laid down in Appendix-A and the manufacturing unit adjudged as having adequate inprocess quality control drills by a panel of experts constituted by the Council for this purpose, the exporter shall also furnish alongwith the intimation mentioned in sub-rule (2) declaration that the consignment of crockeryware

intended for export has been manufactured by exercising adequate quality control as laid down in Appendix-A and that the consignment conforms to the standard specification recognised for the purpose.

(3) The Exporter shall furnish to the Agency the identification marks applied to the consignment to be exported.

(4) Every intimation under sub-rule (1) above, shall be given not less than seven days prior to the despatch of the consignment from the manufacturer's premises, while in the case of intimation alongwith declaration under sub-rule (2) shall be given not less than three days prior to the despatch of the consignment from the manufacturer's premises.

(5) On receipt of the intimation under sub-rule (1) and the declaration, if any, under sub-rule (2), the Agency—

- (a) (i) On satisfying itself that during the process of manufacture, the manufacturer had exercised adequate quality control as laid down in Appendix-A and followed the instructions, if any, issued by the Council or Agency in this regard to manufacture the product to conform to the specification recognised for the purpose, shall within three days issue a certificate declaring the consignment of crockeryware as exportworthy.
- (ii) In case where the manufacturer is not the exporter, however the consignment shall be physically verified and such certification and inspection, if necessary shall be carried out by the Agency to ensure that the above conditions are complied with.
- (iii) The agency shall, however, carry out the spot check of some of the consignments meant for export and shall visit the manufacturing unit at regular intervals to verify the maintenance of the adequate inprocess quality control drills adopted by the unit.
- (iv) If the manufacturing unit is found not adopting the required quality control measures at any stage of manufacture or does not comply with the recommendations of the Council or Agency, the unit shall be declared as not having adequate in-process quality control drills and in such cases, the unit if so desired, shall apply afresh for adjudgement of the maintenance of adequate in-process quality control drills.

(b) In case where the exporter had not declared under sub-rule (2) or rule 4 that adequate quality control as laid down in Appendix A had been exercised the Agency on satisfying itself that the consignment of crockeryware conforms to the standard specifications recognised for the purpose, on the basis of inspection and testing carried out as laid down in Appendix-B shall within seven days of carrying out such inspection issue a certificate declaring the consignment as exportworthy ;

Provided that where the Agency is not so satisfied, it shall within the said period of seven days/three days refuse to issue a certificate to the exporter and shall communicate such refusal to the exporter alongwith the reasons.

(c) (i) In case where the manufacturer is not the exporter under sub-rule (5) (a) or consignment is inspected under sub-rule (5) (b), the Agency shall immediately after completion of the inspection seal the packages in the consignment in the manner so as to ensure that the sealed packages cannot be tampered with.

(ii) In case of rejection of the consignment, if the exporter so desired, the consignment may not be sealed by the Agency but in such cases, however, the exporter shall not be entitled to prefer any appeal against the rejection.

5. Place of Inspection.—Every inspection under these rules shall be carried out either (a) at the premises of the manufacturer of such product, or (b) at the premises of

which the goods are offered by the exporter for inspection, provided adequate facilities for the purpose exist therein.

6. Inspection fee.—Inspection fee shall be paid by the exporter to the Agency as under :

(i) (a) for exporter under inprocess quality control scheme at the rate of 0.2% of the f.o.b. value subject to a minimum of Rs. 20 per consignment ;

(b) for exports under consignmentwise inspection at the rate of 0.4% of the f.o.b. value subject to a minimum of Rs. 20 per consignment.

(ii) Subject to the minimum of Rs. 20 per consignment, the rate shall be 0.18% and 0.36 percent for (a) and (b) of sub-rule (1) above, respectively for manufacturers/ exporters who are registered as small scale manufacturing units with the concerned Government of State/Union territories.

7. Appeal.—(1) Any person aggrieved by the refusal of the Agency to issue a certificate under sub-rule (5) of rule (4) may, within ten days of the receipt of communication of such refusal by him, prefer an appeal to a panel of exporters consisting of not less than three but not more than seven persons as may be constituted by the Central Government under this sub-rule.

(2) The panel of experts shall consist of atleast two-third of non-officials of the total membership.

(3) The Quorum for the panel of experts shall be three.

(4) The appeal shall be disposed of within fifteen days of its receipt.

[F. No. 6(3)/88-EI&EP]

A. K. CHAUDHURI, Director

APPENDIX A

INPROCESS QUALITY CONTROL

The quality control of the crockeryware intended for export shall be done with a view to seeing that the same conform to the specifications recognised by the Central Government under section 6 of the Act by effecting the following controls at different stages of manufacture, namely :—

(i) Boughtout Materials and Components Control

(a) Purchase specifications shall be laid down by the manufacturer incorporating the properties of materials or components to be used and shall have adequate means of inspection or testing to ensure conformity of the incoming lots ;

(b) the accepted consignments shall be either, as far as possible, accompanied by a supplier's test or inspection certificate incorporating the requirement of the purchase specification, in which case occasional check (that is to say, once in each quarter of the year for the same supplies of the same material) shall be conducted by the manufacturer for a particular supplier to verify the correctness of the afore-said test or inspection certificates, or the purchased materials or components shall be regularly inspected or tested either in a laboratory in the factory or in some other laboratory or test houses ;

(c) the sampling for inspection or test to be carried out shall be based on a recorded investigation.

(d) After the inspection or test is carried out, systematic methods shall be adopted in segregating the accepted and rejected materials or components and in disposal or rejected materials or components ;

(e) adequate records in respect of the above mentioned controls shall be regularly and systematically maintained by the manufacturer.

(ii) Process Control

(a) detailed process specification shall be laid down by the manufacturer for different processes of manufacture.

(b) equipment, instrumentation and facilities shall be adequate to control the process as laid down in the process specification.

(c) adequate records shall be maintained by the manufacturer to ensure the possibility of verifying the controls exercised during the process of manufacture.

(iii) Product Control

(a) the manufacturer shall either have his own adequate testing facilities or shall have access to such testing facilities existing elsewhere to test the product as per the specifications recognised, under section 6 of the Act ;

(b) sampling (wherever required) for testing shall be based on a recorded investigation ;

(c) adequate records in respect of tests carried out shall be regularly and systematically maintained by the manufacturer.

(iv) Preservation Control

(a) a detailed specification shall be laid down by the manufacturer to safeguard product from adverse effect of weather conditions ;

(b) the product shall be adequately preserved both during storage and transit to the port of shipment.

(v) Metrological Control

Gauges and instruments used in the production and inspection shall be periodically checked or calibrated and records shall be maintained in the form of history cards by the manufacturer.

(vi) Packing Control

The manufacturer shall lay down a detailed packing specifications for export packages and shall strictly adhere to the same. The code of packaging prescribed by Export Inspection Council shall be kept in view.

APPENDIX B

Consignmentwise Inspection.—To determine the conformity of a consignment of Crockeryware to the standard specifications the following procedure shall be followed :

Lot : In any consignment all items of crockeryware of the same category (such as cups, pots and plates) shall be grouped together to constitute a lot of 1000 pieces or less. Samples shall be taken from each lot to ascertain the conformity of the crockeryware to the requirements of the specifications.

Scale of Sampling.—The number of sample items of crockeryware to be selected for various tests shall be given in the table below. If the items of crockeryware in a lot are packed in a number of boxes, the sample items shall be selected in the following manner :

(a) For lot packed in 5 boxes or less—all boxes shall be opened ; and

(b) for lots packed in more than 5 boxes, atleast 20 percent of the boxes, subject to a minimum of 5, shall be sampled at random.

In both the cases (a) and (b), the total number of sample size shall be in accordance with Col. 2 of the table.

Table Scale of Sampling

Lot Size	For workmanship and Finish and Visual Assessment		For Impact strength and chipping Resistance	
	Sample size	Acceptance number	Sample size	Acceptance number
1	2	3	4	5
Upto 100	8	1	3	0
101 to 300	13	1	4	0
301 to 500	20	2	5	0
501 to 1000	32	3	6	0

Testing of the samples and Criteria for Conformity.

Workmanship and Finish and Visual Assessment.—Items of crockeryware selected in accordance with Col. 2 of Table shall be individually examined for the presence of major and minor defects as mentioned in 4.1 of the Annexure to the said order. The number of defective items shall not exceed the number given in Col. 3 of Table if the lot is to be declared satisfactory under this clause.

Impart Strength and Chipping Resistance.—The sample size for each of this test shall be as given in col. 5 of the Table. Sample wares shall be drawn out of those declared satisfactory under this clause.

Other Tests.—One test shall be conducted for crazing lead solubility, water absorption and thermal shock resistance. For this purpose, required number of samples shall be collected afresh from the lot at random. The lot shall be deemed satisfactory if no failure is reported in all these tests.

अम मंत्रालय

नई दिल्ली, 23 जून, 1989

का.आ 1686.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 11) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पोस्टमास्टर जनरल, नई दिल्ली के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पक्षपद को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-6-89 को प्राप्त हुआ था।

MINISTRY OF LABOUR

New Delhi, the 23rd June, 1989

S.O. 1686.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Post Master General New Delhi and their workmen, which was received by the Central Government on the 12-6-89.

ANNEXURE

BEFORE SHRI G. S. KALRA, PRESIDING OFFICER,
CENTRAL GOVT. INDUSTRIAL TRIBUNAL,

NEW DELHI

I.D. No. 91/88

In the matter of dispute between :

Shri Roshan Lal son of Shri Nand Lal, House No. 123,
Vill. Basant, New Delhi-57.

Versus

1. Post Master General,
Mohan Singh Place, Connaught Place,
New Delhi.2. Senior Supdt. of Post Offices,
South West Division,
New Delhi.

APPEARANCES :

Shri Jog Singh—for the workman.

Shri U. M. Kalra—for the Management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-40012/31/87-D.II(B) dated 5th August, 1988 has referred the following industrial dispute to this Tribunal for adjudication.

"Whether the action of the management of Post Master General, New Delhi in terminating Shri Roshan Lal from services with effect from 17-12-1986 and in not allowing him to sit for the test for regular appointment is legal and justified. If not, to what relief the workman concerned is entitled?"

2. As this reference is being decided on the basis of settlement it is not necessary to set forth in detail the pleadings of the parties. Suffice it is to say that the workman filed statement of claim dated 24-10-1988, the Management filed written statement dated 5-12-1988, and the workman filed a rejoinder dated 27-2-1989. On 23-5-1989 Shri K. C. Gupta, A.S.P.O. on behalf of the Management made statement that they were prepared to take the workman back in service with the benefit of continuity of service from the date of initial appointment but without back wages and that the workman could join duty from the next day and further that the workman shall be duly considered for regular appointment in accordance with the scheme prepared under the directions of the Hon'ble Supreme Court of India. This offer was accepted by the workman.

3. As per the statement of parties, I hereby make an award to the effect that the workman shall be reinstated in service with continuity of service but without any back wages and the workman shall also be considered for regular appointment in accordance with the scheme prepared by the Management under the directions of the Hon'ble Supreme Court. The workman shall join duty without loss of time. This reference stands disposed of accordingly.

Dated : 24th May, 1989.

G. S. KALRA, Presiding Officer

[No. L-40012/31/87-D.II (B)]

नई दिल्ली, 30 जून, 1989

का.आ.1687.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) के धारा 17 के अनुसरण में, केन्द्रीय सरकार उत्तर रेलवे, लखनऊ के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पक्षपद को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-6-89 प्राप्त हुआ था।

New Delhi, the 30th June, 1989

S.O. 1687.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of D.C.S., Northern Railway, Lucknow and their workmen, which was received by the Central Govt. on the 19-6-1989.

ANNEXURE

BEFORE SHRI ARIAN DEV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, KANPUR

Industrial Dispute No. 22 of 1989

In the matter of dispute between;

Divisional Secretary
Uttar Railway Karamchhari Union,
39-II, J. Multi Stories Railway Colony,
Charbagh,
Lucknow.

Petitioner.

AND

D.C.S.,
Northern Railway,
Hazaratganj,
Lucknow (U.P.)

Opp. Party.

AWARD

1. The Central Government, Ministry of Labour, vide its notification No. L-41012/13/87-D.II(B) dated 18-1-89, has referred the following dispute for adjudication to this Tribunal for adjudication :—

“Whether the action of D.C.S., Northern Railway Lucknow in imposing the penalty of reduction in pay for a period of two years on Shri Jamuna Ram. T.T.E. is justified ? If not, to what relief the workman concerned was entitled to ?”

2. Today the present case was fixed for filing of statement of claim by the Union. Shri B. D. Tewari, the Auth. Representative for the union make an endorsement on the order sheet to the effect that since the grievance have been redressed by the management on appeal, the union has no complaint left in the present reference order.

3. Thus, in view of the endorsement made on this order sheet today the reference has become infructuous.

4. Therefore, in view of the above, the reference is answered accordingly.

ARJAN DEV, Presiding Officer

[No. L-41012/13/87-V.II (B)]

का.आ. 1688.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) का धारा 17 के अनुसरण में, केन्द्रीय सरकार उत्तर रेलवे कानपुर के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करता है जो केन्द्रीय सरकार को 19.6.89 प्राप्त हुआ था ।

S.O. 1688.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Northern Railway, Kanpur and their workmen, which was received by the Central Government on the 19-6-89.

ANNEXURE

BEFORE SHRI ARJAN DEV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, KANPUR

Industrial Dispute No. 64 of 1988

In the matter of dispute between :
The Zonal President,
Uttar Railway Karamchhari Union,
96/196 Roshan Bajaj Lane Ganesh Gani,
Lucknow

Petitioner.

AND

The Divisional Electrical Engineer,
Northern Railway,
Traction Motor Shop,
Kanpur.

Opp. Party.

AWARD

1. The Central Government, Ministry of Labour, vide its notification No. L-41011/7/86-D.II(B), dated 10-5-88, has referred the following dispute for adjudication to this Tribunal :

Whether the action of the management of Northern Railway in not regularising the services of Sh. Naval Kishore and Sh. Sushil Kumar Mishra Electric Khalasis, Traction Motor Shop, Kanpur, w.e.f. 13-8-82, and 22-9-82 respectively is legal and justified. If not, to what relief the workmen concerned are entitled to ?

2. The industrial dispute on behalf of the two workmen, namely, S/Sh. Naval Kishore and Sushil Kumar Mishra has been raised by Uttar Railway Karamchhari Union (hereinafter referred to as Union for the sake of convenience). The Union's case is that both of them were engaged in Lucknow Division on 3-11-80. Whereas Sh. Naval Kishore was transferred to Traction Motor Workshop Kanpur on 13-8-82, Sh. Sushil Kumar Mishra was transferred to the said Motor Workshop on 22-9-82. Since, then they have been working in CPC Scale. The Union alleges that their service period from 3-11-80 onwards spent in Lucknow Division has not been counted and further their services have not been regularised as yet. The Union also alleges that their promotion as Helper Khalasis in Semi Skilled Category w.e.f. 1-1-84 was also not done, although persons junior to them have been working as helper khalasis w.e.f. 1-1-84. The Union has, therefore, prayed that the Tribunal should order their regularisation in service and further issue directions for their promotion as helper khalasis w.e.f. 1-1-84 and on skilled post w.e.f. 1-1-86.

3. The management plead that the two workmen were recruited in the Lucknow Division on 3-11-80, when there was a bar on recruitment. The management further plead that there is no provision for transfer from one Division to another Division. They are still in the railway service. Their names appeared in the panel of 1987. Their selection depend on screening and availability of vacancies. The alleged juniors regular employees were recruited before 1-8-78 when there was no bar on recruitment. The management contend that the grievances of the two workmen is about their selection and not about their promotion or about their having been superceded by juniors these subjects are beyond the scope of reference order.

4. In its rejoinder, the Union contends that the two workmen cannot be debarred from the benefit to which they are entitled simply on the ground that they were recruited at the time when there was a ban on recruitment, the management should better proceed against officers who recruited them. The demand for adding period of service of the two workmen Spent in Lucknow Division with the period of their service in the Allahabad Division cannot be said as unjustified. Regarding the panel of 1987, the Union contends that it is the duty of the Administration to regularise the services of those whose name appeared in the said panel.

5. In support of its case, the Union has filed the affidavit of Sh. Naval Kishore, and a few documents. On the other hand, in support of their case, the management has relied simply on a number of documents.

6. At the very out set I may state that it has been rightly pointed out from the side of the management that in this case the Tribunal cannot extend the scope of reference i.e. to say it cannot examine the question of alleged supercession to which the Union has referred in its claim statement.

7. There is no dispute about the fact that both the workmen were recruited in the Lucknow Division on 3-11-80, when there was a ban on recruitment. Despite that they are still in service of the Railway.

8. In this affidavit Sh. Naval Kishore has deposed that he came to Allahabad Division on 13-8-82. In para 3 of his statement in cross examination he has deposed that he has been working as casual khalasi in Traction Motor Workshop, Kanpur, since 13-8-82. In para 6 of his statement in cross examination, he has referred to his grievances against the Railway Administration. According to him his only grievance is that his service period of Lucknow Division has not been counted. In that very para of statement in his cross examination he states that he had to leave the job at Lucknow, as there was no work at Lucknow. He therefore, came to Kanpur, where he was engaged afresh.

In the same way Sh. Shushil Kumar had left the job at Lucknow and got appointment at Kanpur after 11 years. It was so I fail to understand how their period of service in the Lucknow Division can be counted. It was not a case of their transfer from one Division to another as alleged by the Union in the claim statement. In case of transfer the position would have been different and they could have well asked for counting of their service period spent in Lucknow Division.

9. I now take up the question of regularisation of the services of both the workmen. In para 4 of his statement in cross examination Sh. Naval Kishore has deposed that he got C.P.C. scale w.e.f. 17-1-83. About Sh. Sushil Kumar, Mishra he says that he does not know when he was given C.P.C. scale. However it appears from some of the documents filed by the management that Sh. Sushil Kumar Mishra, must have got C.P.C. scale. Ext. M-3 is the copy of list of screening of the year 1988. In the said list the names of S/Sh Naval Kishore and Sushil Kumar Mishra appear at serial nos. 2 and 3 respectively. Similarly their names appear at sl. nos. 12 and 26 respectively in the list of screening for the year 1984. Thus it is proved that both of them are getting C.P.C. scale. I may also state here that from the statement made by Sh. Naval Kishore in his cross examination, it appears that Sh. Sushil Kumar Mishra has not been reporting for duty since 22-2-84. The witness has given the reason that Sh. Sushil Kumar Mishra is lying ill.

10. Mere grant of C.P.C. scale does not entitle a workman to be regularised in service. For regularisation one has to appear before the screening committee. C.P.C. scale simply gives the workman temporary status.

11. Ext. M-6, is the copy of list for screening for the year 1984 in which the names of the two workman appears at serial nos. 12 and 26 respectively. Ext. M-5 is the copy of result of screening and in the said list the names of successful candidates are given. In this list the names of the two workmen in question do not appear. In this cross examination Sh. Naval Kishore has deposed that he and Sh. Sushil Kumar Mishra, were not sent for screening in 1984. He denies that in the said screening test both of them have failed. This much he admits that in 1984, screening was done, but according to him he was sent out of it. The two documents referred to above belie his statement. The Union has not set up the case that in the screening of 1984 Naval Kishore he could not appear as he was sent out. In his cross examination Sh. Naval Kishore has admitted that in January 1988 both he and Sh. Sushil Kumar Mishra were called for screening. Whereas he appeared before the screening committee Sh. Sushil Kumar Mishra on account of illness did not. According to him, the result has not been declared as yet.

12. The above evidence, therefore shows that so far they have not passed the screening test. If it were so the question of regularisation of their services does not arise at all.

13. Accordingly, the reference is answered, against the two workman/Union.

ARIAN DEV, Presiding Officer

[No. L-41011/7/86-D.II (B)]

का.प्र. 1689.—औद्योगिक विवाद प्रविनिधन, 1917 (1947 का 11) की धारा 17 के अनुसूची में, केन्द्रीय सरकार उत्तर प्रदेश सरकार के प्रत्यक्ष ने भारत निर्माण और उनके कार्यों के बीच, अनुसूची में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक प्रविनिधन, कानपुर के पंचपट को प्रकाशित करने है, और केन्द्रीय सरकार को 20.6.89 प्राप्त हुआ था।

S.O. 1689.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Northern Railway, Lucknow and their workmen, which was received by the Central Govt on the 20-6-1989

ANNEXURE

BEFORE SH. ARIAN DEV PRESIDING OFFICER CENTRAL GOVT INDUSTRIAL TRIBUNAL KANPUR

Industrial Dispute No. 126 of 1987
In the matter of dispute between

The Zonal Working President
Uttar Railway Karamchhari Union
96/196 Koshan Bajaj Lane
Ganesh Ganj Lucknow.

AND

The DSF(C)

DRM Office
Northern Railway
Lucknow.

AWARD

1. The Central Govt., Ministry of Labour, vide its notification No. L-41012/58/86-D.II(B) dated 2-9-87, has referred the following dispute for adjudication to this Tribunal.

Whether the termination of Mohd. Akbar Khan Khalasi of IOW Survey, Lucknow by the management of DSA (Coordination), Northern Railway Lucknow is legally in order and justified? If not, to what relief and from what date, the workman is entitled to?

2. The Industrial Dispute in respect of workman Mohd. Akbar Khan, has been raised by Uttar Railway Karamchhari Union (hereinafter, referred to as Union for the sake of convenience).

2. The case of the Union is that Mohd. Akbar Khan was appointed as Khalasi on 25-10-77, under IOW (Survey) Northern Railway, Lucknow and he worked continuously till 5-6-80 for 672 days. On the afternoon of 5-6-80, his services were terminated without notice or notice pay and retrenchment compensation. The Union's case further is that the management did not follow the principle of Last Come First go. S/Sh. Ram Swarup and Prahlad who were recruited on 14-3-78, were retained in service. Thus the management did not comply with the provisions of section 25F, 25G and 25H of the I.D. Act. The Union, has therefore prayed that the workman be reinstated with full back wages and all consequential benefits.

3 The management deny that Mohd. Akbar Khan, ever worked for 672 days w.e.f. 25-10-77, as alleged. In fact he was engaged under IOW (Survey), Lucknow, in 1979. He worked only for 90 days, in 1979, and for 109 days in 1980 in broken periods upto 2-4-80. He never worked continuously for more than 120 days in one span nor more than 240 days in the 12 preceding calendar months. In the circumstances, the question of giving notice or notice pay and retrenchment compensation do not arise. The management deny that the workman was senior to S/Sh. Ram Swarup and Prahlad in fact no seniority list is maintained in respect of casual labour. Only the working of casual labour is maintained for the purposes of engagement on the basis of total working days. The management also plead that no further recruitment has since been made because of the total ban on recruitment as casual labours/substitutes. Lastly, the management plead that Sh. B. D. Tewari, who alleges himself to be the Zonal Working President of the Union has no authority or right to file or contest the case on behalf of the workman/union. The Union is neither a recognised Union nor registered Union.

4. In support of its case, the Union filed affidavits of Shri V. P. Gupta, retired IOW (Survey), Shri Mishri Lal, Sh. Sakhdar Khan and Sh. Mohd. Akbar Khan but produced only Sh. V. P. Gupta and Mohd. Akbar Khan for cross examination. The Union further relied upon documentary evidence. The management on the other hand filed the affidavit of Sh. K. P. Singh, I.O.W. (Survey) and produce him in the witness box for cross examination.

5. In short, the case of the Union is that Mohd. Akbar Khan was appointed on 25-10-77, and his services were terminated on 5-6-80 (AN). During the said period he had worked for 672 days. On the other hand, the case of the management, in short, is that Mohd. Akbar Khan was appointed for the first time in 1979 and he had worked upto 2-4-80, for 90 days in 1979 and for 109 days in 1980.

6. In support of its case, the Union has placed great reliance on the casual labour card and the testimony of Sh. V. P. Gupta whom it has considered to be its star witness, besides placing reliance on the testimony of Mohd. Akbar Khan.

7. Let us first examine the testimony of Shri V. P. Gupta. From his affidavit it appears that he had sworn it on 25th June. In which year it was sworn it is nowhere mentioned in the affidavit including the endorsement of the oath commissioner. Secondly it is nowhere stated in the affidavit including endorsement of the oath commissioner as to on what place it was sworn. According to him although he belongs to Agra he had sworn the affidavit at Lucknow. Another statement made by him with regard to his affidavit is that he did not get it prepared; rather it was brought to him as such. Thus so far as the affidavit is concerned, we find that some important details are missing rendering it as not proper in the eyes of law.

8. Secondly, it appears doubtful that he is an independent witness. From his cross examination it appears that he attended the court for the first time on 27th June, 1988. He had come to Lucknow 3-4 days before the said date from Agra. According to him his son is posted as District Manager, Hindustan Antibiotics and he had come to see him. Second time he attended the court on 19th July, 1988, the date on which he was cross examined. This time also according to him he had come 3 or 4 days before to Lucknow to see his son. According to him he had come for giving evidence at the instance of Shri Sakhdar Khan, who had introduced to him Mohd. Akbar Khan describing him as his Sale.

9. In his cross examination Shri Gupta has also stated that Shri Sakhdar Khan has been known to him since, 1971. He had been his trolley man. It was he who introduced to him Mohd. Akbar Khan. Akbar Khan worked under him against temporary sanctions. I may state here that in his affidavit even he has described the workman as Mohd. Akbar Khan.

10. With regard to Casual Labour Card, Shri Gupta has deposed that it is the casual labour card of Mohd. Akbar Khan. It was prepared by him and it bears his signatures and the Left Thumb Impression of Mohd. Akbar Khan. According to him entries in column nos. 2 and 3 against serial nos. 1 to 7 are in his hand writing and in column no. 4 he had put his initials. In column no. 4 and 5 he has given reference of the sanction under which Mohd. Akbar Khan was made to work in his hand writing. He has denied that casual labour card is Farzi and it has been prepared by him at the instance of Sakhdar Khan. Shri Gupta has then deposed the casual labour card was first prepared in the name of Shri Ram Naresh, who most probably left the job after 3-4 days leaving the card. Since no casual labour card was available he prepared it in the name of Mohd. Akbar Khan. He admits that he had not put the date below his signatures and the date on which he signed it. When he prepared the card Akbar Khan told him his name as Akbar Khan. He prepared the card in the name of Akbar Khan. The word 'Mohd' appearing before the name of Akbar Khan is not in his hand writing.

11. Another statement made by him is that below the name of Ram Naresh there appears some initial, the initial is not his

12. Thus from his above statement it appears that some interpolation has been made in the casual labour card. The word (Mohd.) has been added subsequently and secondly even though the name of Ram Naresh had been scored out by him some body else put his initials below the name of Ram Naresh. Thirdly, despite the fact that the name of the workman is Mohd. Akbar Khan, the casual labour card was prepared in the name of Akbar Khan and the name Akbar Khan was written by Shri Gupta against serial no. 1 on the first part of the casual labour card and also below the L.T.I. of Mohd. Akbar Khan.

13. Later on in his cross examination Shri Gupta, took a somersault and said that so far he knows Akbar Khan and not Mohd. Akbar Khan who had worked under him as casual labour. Sakhdar Khan, who according to him introduced to him Akbar Khan has not been examined by the Union nor the Union has tried to establish the identity of Mohd. Akbar Khan by showing him to Shri Gupta while he was in the witness box. The Union further made no attempt to establish the identity of Mohd. Akbar Khan by getting compared the LTI on the casual labour card with the admitted LTI of Mohd. Akbar Khan from some Hand writing & Finger Print Expert. Not only that, according to Shri Gupta, the fellow who worked under him worked against temporary sanctions for one month and even upto 90 days but not beyond that. However, it does not appear to be so when the entries of the casual labour card are examined. From entries it will appear that some times the fellow had worked even for more than 120 days. All the circumstances throw a lot of doubt about the genuineness of the casual labour card. The card cannot be said to be of Mohd. Akbar Khan a workman whose case has been espoused by the Union. It could be of Shri Akbar Khan.

14. The management witness in his cross examination has admitted that against the entries of Sl. Nos. 8 and 9 of part II of the casual labour card the signatures of his predecessor Shri L. N. Agnihotri appears in the date 19th June, 1980. These entries cannot render the casual labour card as that of Shri Mohd. Akbar Khan. The management witness has then stated that paid vouchers of the period 1977 to 1980 are not available. They have been weeded out. Even the booking register of the said period has been weeded out. According to him casual labour register should have been maintained but since no such register was delivered to him while taking over charge and since only one casual labour is working under him he has not been maintaining any casual labour register.

15. For the above state of affairs with regard to availability of records the workman should thank himself. According to the Union the workman had worked upto 5th June, 1980. With the claim statement have been filed the copy of Failure of Conciliation Report dated 21st October, 1986, submitted by ALC(C) to the Sectt. Ministry of Labour, New Delhi. From the letter it appears that the Union gave strike notice on 25th November, 1985 i.e. after 5-1/2 years. Had the workman been vigilant he would have pursued his matter soon after the termination of his services on 5th June, 1980, and had he done so, in that event he could have easily lay his hands on such evidence as might have supported his case.

16. In view of the facts and circumstances to which I have referred, it is not possible to place much reliance on his testimony. The casual labour card relied upon by the Union cannot be held as one in respect of Mohd. Akbar Khan workman.

17. Thus, there is no evidence to show that Mohd. Akbar Khan had worked for 240 days during the period of 12 months preceding the date of termination of his services. Even from the entries of the casual labour card which relied upon, it is not proved that he had worked for 240 days during the period of 12 months preceding the date of his termination of services. In the circumstances, the question of giving notice, notice pay and retrenchment compensation does not arise. His termination as such is not hit by provisions of section 25F.

18. The termination of the services of Mohd. Akbar Khan has been assailed by the Union on one more ground i.e. S/Shri

Prahlad and Ram Swarup who were junior to Mohd. Akbar Khan were retained in service by the management. Thus the management committed breach of the provisions of section 25G, I.D. Act.

19. In the claim statement it is mentioned that both Shri Ram Swarup and Shri Prahlad were recruited on 13th April, 1978. In his cross examination Mohd. Akbar Khan has deposed that Shri Prahlad was recruited on 13th April, 1979. About the date of recruitment of Shri Ram Swarup, he has expressed his ignorance. According to him before the preparation of claim statement he had informed Shri B. D. Tewari, that Shri Prahlad joined Railway Service for the first time on 13th April, 1979. Towards the end of his cross examination Mohd. Akbar Khan says that he is unable to say how he learnt as to on what dates both Shri Prahlad and Shri Ram Swarup were recruited. It is therefore, clear that there is no cogent evidence from the side of the union about the initial dates of recruitment of both Shri Prahlad and Shri Ram Swarup. The pleading with regard to dates of their recruitment is contrary to the evidence adduced by the Union.

20. If the entries of the casual labour card are taken into consideration then we will find that the last engagement of the workman was from 8th March, 1980 to 5th June, 1980. Before, that the period of his service as per entries of the said card was from 5th December, 1979 to 4th March, 1980. In *K. V. Subbarao Vs. Government of Andhra Pradesh 1988(7) Administrative Tribunal Cases 94 (S.C.)*. Their Lordships while interpreting Rule 33(a) of the A.P. State Subordinate Service Rules held that date of first appointment is intended to refer to continuous appointment only. In view of this Ruling the continuous appointment of Mohd. Akbar Khan as per entries of the casual labour card would be from 8th March, 1980. S/Shri Prahlad and Ram Swarup having joined railway service on 13th April, 1978 vide facts alleged in the claim statement and 13th April, 1979 so far as Shri Prahlad is concerned vide statement of Mohd. Akbar Khan in his cross examination for the purpose of application of Section 25G, I. D. Act they cannot be considered as juniors to Mohd. Akbar Khan.

21. Thus on both counts, the Union's case fails. Accordingly it is held that the termination of the services of Shri Mohd. Akbar Khan is legal and justified. The workman is entitled to no relief.

22. The reference is answered accordingly.

ARJAN DEV, Presiding Officer

[No. L-41012/58/86-D.II(B)]

का.प्र. 1690.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मीनियरसुपरि-टेंडेंट, कानपुर सिटी डिवीजन, हेड पोस्ट ग्राफिक्स के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 19.6.89 को प्राप्त हुआ था।

S.O. 1690.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Sr. Supdt., Kanpur City Divn., Head Post Office and their workmen, which was received by the Central Government on the 19-6-89.

ANNEXURE

BEFORE SHRI ARJAN DEV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
KANPUR

Industrial Dispute No. 82/89

In the matter of dispute between

The Sr. Superintendent, Kanpur City Division, Head Post Office, Kanpur.

AND

Shri Madan Kishore, Regional President, Akhil Bhartiya Dak Karamchhari Sangh, 126/18, J Block, Govind Nagar, Kanpur.

AWARD

1. The Central Government, Ministry of Labour, vide its notification No. L-40012/14/88-D-2(B), dated 20th March, 89 has referred to the following dispute for adjudication to this tribunal :

Kya Kanpur ke Gandhi Gram Dakghar ke Prabondh-tantra ki Shri Munshi Singh ki 28-12-85 se Seva-yen samapt karne ki karvahi vaidya aur nayochit hai? Yedi Nahi to who kis anutoch ka aur kis tarikh he haqdar hai?

2. On receipt of the reference order a notice was ordered to be issued to Shri Munshi Singh C/o Shri Madan Kishore, Regional President Akhil Bhartiya Dak Karamchhari Sangh, Kanpur, fixing 26-4-89 for filing claim statement On 26-4-89 Shri Madan Kishore in his capacity as Sahayak Prantiya Mantri of the said Sangh put in an application with the prayer to close the case in as much as the management had redressed the grievances of the workman. On 26-4-89, the Tribunal was holding Camp Court elsewhere. Today neither the workman nor any body on behalf of the said Sangh has appeared. However, Shri P. K. Mishra, Sub-Divisional Inspector has appeared on behalf of the management and he has made an endorsement on the application dt. 26-4-89 of the Sahayak Prantiya Mantri that the workman Munshi Singh has already been provided alternative employment from October, 1988.

3. In view of the above application of the Sahayak Prantiya Mantri and the endorsement of Shri P. K. Mishra, I find that the reference order has become infructuous.

4. Reference is answered accordingly.

ARJAN DEV, Presiding Officer

[No. L-40012/14/88-D.II(B)]

का.प्र. 1691.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डिस्ट्रिक्ट मैनेजर (टेलीफोनस), आगरा के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 19.6.89 प्राप्त हुआ था।

S.O. 1691.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Distt. Manager, (Telephones), Agra and their workmen, which was received by the Central Government on the 19-6-89.

ANNEXURE

BEFORE SHRI ARJAN DEV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, KANPUR

Industrial Dispute No. 20 of 1989

In the matter of dispute between :

Shri V. K. Gupta, 2/363, Nannair, Agra.

Petitioner

AND

The District Manager, Telephone, Central Telegraph Office, Agra.

Opp. party.

AWARD

1. The Central Government, Ministry of Labour, vide its notification No. L-40011/12/87-D.II(B), dt. 18-1-89, has

referred the following dispute for adjudication to this Tribunal for adjudication :—

"Whether the District Manager, (Telephones), Agra was justified in terminating the services of Shri Nawab Singh S/o Shri Bipti Ram and 142 other workmen as per list enclosed w.e.f. 1-4-1986? If not, what relief the workmen concerned were entitled to?"

2. In the present case dates 23-2-89, 17-3-89 and 12-4-89 were fixed for filing of the claim statement but no claim statement was filed by the workmen till 12-4-89. On 12-4-89 Shri V. K. Gupta, Representative for the workmen orally prays for time to file claim statement upon that the case was adjourned to 11-5-89 at Camp Dehradun.

3. On 11-5-89 none appeared from the side of the workmen to file statement of claim. Therefore it appears that the workmen are not interested to contest the case. As such a no claim award is given in the case.

4. Reference is answered accordingly.

ARIAN DEV, Presiding Officer
[No. L-40611/12/87-D.II(B)]

का.भा. 1692.—श्रीद्योगिक विवाद अधिनियम, 1947 (1947 का 14) को धारा 17 के अनुसरण में, केन्द्रीय सरकार उत्तर रेलवे, लखनऊ के प्रबंधन से सम्बद्ध नियोज्जकों और उनके कर्मचारियों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पचाट को प्रकाशित करती जो केन्द्रीय सरकार को 19.6.89 प्राप्त हुआ था ।

S.O. 1692.—in pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the industrial dispute between the employers in relation to the management of Northern Railway, Lucknow and their workmen, which was received by the Central Government on the 19-6-89.

ANNEXURE

BEFORE SHRI ARIAN DEV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, KANPUR

Industrial Dispute No. 43 of 1989

In the matter of dispute between :

Divisional Secretary, Uttar Railway Karamchaji Union,
96/196 Roshan Bajaj Lane, Ganeshganj, Lucknow.

Petitioner

AND

Dy, Chief Electrical Engineer, Northern Railway,
Charbagh, Lucknow.

Opp. Party.

AWARD

1. The Central Government, Ministry of Labour, vide its notification No. L-40012/27/87-D.II(B), dt. 1-2-89, has referred the following dispute for adjudication to this Tribunal for adjudication:

"क्या वर्कमैनय इम्प्लिकेटेड इन् निचर, उत्तर रेलवे, लखनऊको श्री रघुबीर सिंह खलामो की 11-2-73 से सेवाएं समाप्त करने की कार्यवाही प्रायोजित है यदि नहीं तो कर्मकार किस अनुषंग का हकदार है ?"

2. On 25-4-89, the Assistant General Secretary, URKU, filed an application informing the court that since the workman had expired, the case may be closed.

3. As such the case is decided in view of the application dated 25-4-89 and a no claim award is passed in the case.

4. Reference is answered accordingly.

ARIAN DEV, Presiding Officer
[No. L-41012/27/87-D.II(B)]
HARI SINGH, Desk Officer

नई दिल्ली, 26 जून 1989

का.भा. 1693.—श्रीद्योगिक विवाद अधिनियम, 1947 (1947 का 14) का धारा 17 के अनुसरण में, केन्द्रीय सरकार, मैसर्स भारत कोकिंग कोल लिमिटेड को केन्दवाडी कोयलियरों के प्रबंधन से सम्बद्ध नियोज्जकों और उनके कर्मचारियों के बीच, अनुबंध में निदिष्ट विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (सं.-1) धनबाद के पचाट को प्रकाशित करता है, जो केन्द्रीय सरकार को 13.6.1989 को प्राप्त हुआ था ।

New Delhi, the 26th June, 1989

S.O. 1693.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 1 Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the Management of Kendwadih Colliery of M/s. Bharat Coking Coal Limited and their workmen, which was received by the Central Government on the 13-6-89.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 DHANBAD

(In the matter of Reference under Section 10(1)(d) of the Industrial Disputes Act, 1947)

Reference No. 49 of 1988

PARTIES :

Employers in relation to the management of Kendwadih Colliery under Putkes Bahari Area of M/s. Bharat Coking Coal Ltd., P.O. Kusunda, Dist. Dhanbad

AND

Their Workmen

APPEARANCES :

GenriPb

For the Employers—Shri B. Joshi, Advocate.

For the Workmen—Shri J. D. Lal, Advocate.

STATE : Bihar

INDUSTRY : Coal

Dated, the 26th May, 1989

AWARD

The present reference arises out of Order No. L-20012/211/87-D-III(A) dated 25th March, 1988 passed by the Central Government in respect of an industrial dispute between the parties mentioned above. The subject matter of the dispute has been specified in the schedule to the said order and the said schedule runs as follows :—

"Whether the demand of the Union for absorption and regularisation of S/Smt. Ramkali and 15 others (as listed below) Sweeping Mazdoors by the management of Kendwadih Colliery under Putkee Bahari Area of M/s. Bharat Coking Coal Ltd. P.O. Kusunda, District Dhanbad is justified? If so, to what relief the concerned workmen are entitled to?"

LIST OF WORKMEN

1. Smt. Ramkali
2. " Kunti Kamin
3. " Sabitri Kamin
4. " Chote Sukmati Kamin
5. " Sabi Kamin
6. " Pani Kamin
7. " Sukarmani Kamin
8. Sri Chote Lal Coolie
9. Smt. Chote Parbati

10. " Kausalya
11. " Bada Sukmati
12. " Phirthu Bhai
13. " Halima Bibi
14. " Raj Mani
15. " Ramani Devi
16. " Bada Parbati

2. The case of the sponsoring union, Rashtriya Colliery Mazdoor Sangh, as appearing from the written statement submitted, details apart, is as follows :

The concerned workers Smt. Ramkali and 15 others have been working in Kandwadih Colliery continuously as cleaning/sweeping mazdoors since sometimes in 1973 to the satisfaction of all concerned. Inspite of their working in the colliery continuously for long they have not been regularised in service as mazdoors on permanent rolls of the colliery and they have been denied regularisation inspite of the fact that the job of cleaning/sweeping mazdoors is of perennial nature. Earlier they were members of Bihar Colliery Kamgar Union. Over an industrial dispute with regard to their regularisation in service a settlement was arrived at in 1973 between the management of the colliery and Bihar Colliery Kamgar Union in respect of workers figuring in Annexure B to the settlement. In Annexure B to the settlement, out of 16 workers, 12 workers were treated to have qualified for being employed as fresh recruits on permanent rolls of the colliery. But in term No. 2 of the settlement it was mentioned as follows :—

As a gesture of goodwill it is agreed that if there is any fresh recruitment at the colliery, those workers of Annexure 'B' may be given first preference depending on their suitability for the job and according to seniority.

As per term No. 1 of the said settlement, 30 workmen figuring in Annexure 'A' annexed to the settlement were recruited afresh, but as per term No. B of the said settlement, 16 concerned workers figuring in the settlement have not been recruited on permanent rolls of the colliery. This amounts to height of exploitation as the concerned workers have been denied permanency and are being paid less wages etc. whereas for similar jobs others are being paid wages at a higher rate. The concerned workers have been working for long in the colliery and 12 out of them figured in Annexure 'B' to the settlement because of their being members of Bihar Colliery Kamgar Union then and 4 others did not figure in the Annexure 'B' to the settlement because of their not being members of Bihar Colliery Kamgar Union. Some years back the concerned workmen shifted their loyalty and became members of Rashtriya Colliery Mazdoor Sangh. The Branch Office Bearers of the union and later on the Central Office Bearers of the union took up the dispute relating to the regularisation with the management several times verbally for settlement. On 10th June, 1986 a discussion was held between the management and the union and a record note of discussion was drawn. According to Item 3 of the said record notes of discussion, the demand of the union for permanent absorption of the concerned workmen was considered just and genuine and it was decided to forward the case to Head Office for approval and orders. But even then the dispute was not settled and thereupon the union wrote letters dated 10th May, 1986, 16th August, 1986 and 24th September, 1986 to the management for settling the dispute. But the management paid no heed to the request of the union. The dispute remaining unsettled the union raised an industrial dispute by a letter dated 28th November, 1986 before the Conciliation Officer. The conciliation proceeding held/started but the dispute was not settled and conciliation ended in a failure. The ALC(C) Dhanbad recommended to the appropriate government to refer the dispute for adjudication. Since the concerned workers were treated by the management to have qualified for regularisation in service, they are entitled to be regularised in service as sweeping mazdoors.

3. The case of the management of Kandwadih Colliery as appearing in the written statement submitted by it, briefly stated, is as follows :

The present dispute is not legally maintainable since there exists no relationship of employer and employee between the management and concerned persons. Out of the 16 concerned persons named in the Annexure to the Schedule, S/Smt. Ramkali (Sl. No. 1), Halima (Sl. No. 13), Chota Parbati (Sl. No. 9) and Rajmani (Sl. No. 14) are known to the management as sweeping contractors and rest of the persons are not known to the management. The management has got regular sweeping and cleaning mazdoors to sweep and clean roads etc. on day to day basis. For the purpose of removing ash, rejections and other materials from dumps at intervals of 10 to 15 days depending upon accumulations contracts were used to be given on scheduled rates after measurement to 4 contractors. Work orders were issued to them and payments were made on the basis of bills submitted by them after proper verification and the contractors used to make payments to their workmen. The management was neither supervising their job nor did it exercise any control over them. No kind of compulsion was put on the contractors to accept the contract. There was no fixed duty hours of the contractor's workmen and they were to clean the dumps in one day or two days according to their convenience. No material or equipment was provided to them for cleaning the dumps. They used their own materials and equipments for cleaning the same. As the nature of the job was/is casual and intermittent, they used to employ casual workmen. Different persons worked at different period. In view of the casual nature of jobs the management could not employ regular workmen. It could not engage casual workers as employment could not be given for sufficient number of days to such casual workmen to earn sufficient amount. The management preferred to engage contractors for such jobs. The cleaning of houses and removing of ash and rejections from the houses are done by the domestic servants or house wives of the employees occupying the houses. Ash and rejections are thrown on the dumps situated at certain distances. After 10 to 15 days such dumps are cleaned by the contractors. The claim of the concerned persons for their absorption as employees of the management is unreasonable because there is no sufficient work for their absorption as casual workmen. Their demand for regularisation is absurd because they cannot be provided with regular job. Casual workmen are regularised by the management after completion of 240 days attendance in a calendar year. Since regular job cannot be provided and proper control cannot be exercised in view of the nature of job, no regular workmen can be engaged on such job.

In the circumstances, the management has prayed that the demand of the union for absorption and regularisation of the concerned persons in service be rejected.

4. In rejoinder to the written statement of the sponsoring union the management has disputed the allegations made by the union and stuck to its own case.

5. In the rejoinder to the written statement of the management the sponsoring union has asserted that there is relationship of employer and employees between the management and the concerned workers. The concerned workers have been working regularly and continuously since 1973 as sweeping and cleaning mazdoors under the direct control and supervision of M/s. Bharat Coking Coal Ltd.'s Officers such as Sanitary Inspector as any other regular worker. But it is alleged that in order to create an artificial snap of ties of employer and employee relationship the management of the colliery is preparing wage bills in favour of the 4 concerned workers who collect the wages and distribute the same among themselves according to number of attendance and sometimes also according to the quantum of work done. The management of B.C.C.Ltd., maintains the attendance register in respect of these workers and necessary implements are also supplied by the management. The 4 concerned workers in whose name wage bills are prepared and whom the management declared as Contractors are neither registered as contractor nor have they any licence as required under the Contract Labour (Regulation and Abolition) Act, 1973. The management by creating a snap of ties of employer and employee wants to deny the status of regular

workmen to the concerned workers with a view to deprive them of the proper wages and other statutory benefits. As many as 12 of the concerned workers excepting workers at Sl. No. 8, 13, 14 & 15 were previously employed in Ekra Colliery as cleaning mazdoors. Ekra Colliery merged with Basdeo Colliery sometime in 1976 and these workmen worked in Basdeo Colliery till 1978. Sometime in 1979, 13 female workers including these 12 female workers and another Smt. Jitni Kamin were transferred from Basdeo Colliery to Kendwadih Colliery and these 13 female workers started working in Kendwadih Colliery as sweeping and cleaning mazdoors. Jitni Kamin died and in her place Chotelal, workman at Sl. No. 8 started working sometime in the year 1980. Three other female workers at Sl. No. 13, 14 & 15 were already working in Kendwadih Colliery as sweeping mazdoors when the concerned 12 female workers and another were transferred from Basdeo Colliery to Kendwadih Colliery. Since 1979 these 16 female workers have been working regularly and continuously as sweeping and cleaning mazdoors. The 4 concerned female workers in whose name work orders were issued and wage bills prepared are not registered as contractors and nor have they any licence as required under the provisions of Contract Labour (Regulation & Abolition) Act, 1973 and no paper arrangement can hide the real status of these workers. The four female concerned workers whom the employers labelled as contractors, themselves work and get the same wages as other workers. They are required to do all the cleaning and sweeping work under the supervision of the Sanitary Inspector who fix the hours of working and so they are not free to work according to their sweet will. All the employments and other materials required for the work are supplied by the management. In the circumstances the concerned workers have claimed that they are entitled to be regularised in service.

6. The sponsoring union has examined two witnesses of whom WW-1 is Sri Ram Palak Yadav, Sanitary Inspector of Kendwadih Colliery and WW-2 Ramkali one of the concerned female workers. The union has laid in evidence some documents which have been marked Exts W-1 to W-3(b).

The management on the other hand has examined only one witness, namely, MW-1 S. C. Tiwary, Agent of Kendwadih Colliery and laid in evidence a mass of documents which have been marked as Exts. M-1 and M-1/2.

4. The case of the sponsoring union is that out of the 16 concerned workers, 12 of them (excepting the workers whose names appear at Sl. No. 8 Chotelal Collie, Sl. No. 13 Halima Bibi, Sl. No. 14 Raj Mani and Sl. No. 15 Ramani Devi) were previously employed in Ekra Colliery as Cleaning Mazdoors and that Ekra Colliery merged with Basdeo Colliery sometime in 1976 and these 12 female workers worked in Basdeo Colliery till 1978-79. It is the further case of the sponsoring union that these 12 female workers and another Jitni Kamin were transferred from Basdeo Colliery to Kendwadih colliery and there these 13 female workers started working in the said colliery as sweeper and cleaning mazdoors and then Jitni Kamin died her son Chote Lal whose name appears at sl. no. 8 started working sometime in the year 1980 and that other three female workers whose names appear at sl. nos. 13, 14 and 15 were already working in Kendwadih colliery as sweeping mazdoors when the 12 female workers and Jitni Kamin were transferred to Kendwadih colliery. It is also the case of the sponsoring union that since 1979 these 16 female workers have been working regularly and continuously as sweeping and cleaning mazdoors of Kendwadih colliery. WW-2 Ram Kali, one of the concerned female workers, whose name appears in the schedule of the reference at serial no. 1, has emphatically stated that 11 of the concerned female workers, namely, Chote Parbati, Kunti Kamin, Sabitri Kamin, Chote Sukmati Kamin, Sati Kamin, Pani Kamin, Sukarmani Kamin, Bara Sukmati Kamin, Kausala Kamin Kirtu Bai Kamin and Bara Parbati were her co-workers in Ekra Colliery and that all of them had worked in that colliery from 1973-79. She has further stated that in 1979 all of them were transferred to Kendwadih Colliery and that since then they have been working in that Colliery as sweeping and cleaning mazdoors. She has also stated

that Kajmani, Halima and Hemani had already been working there as sweeping/cleaning mazdoors when they joined Ekra colliery and that Jitni Kamin worked with them in Ekra Colliery and on the death of Jitni Kamin, her son, Chote Lal started working in place of her mother as sweeping/cleaning mazdoor. Her testimony that she along with 11 other female workers had worked in Ekra Colliery as sweeping/cleaning mazdoors from 1973 to 1979 has remained unassailed. MW-1 S. C. Tiwary, Agent of Kendwadih Colliery has not disputed this fact. It appears that while these 12 concerned female workers were working in Ekra colliery as contractor's employees an industrial dispute was raised by Bihar Colliery Kamgar Union over their regularisation and regularisation of other workmen and ultimately the matter was resolved by amicable settlement between the employer and the sponsoring union whereby the case of these concerned female workers for their regularisation in service as sweepers/cleaning mazdoors was not insisted upon by the sponsoring union and their fate was left to the choice of the management. This position emerges from the photo copy of the terms of settlement and annexure thereof submitted by the sponsoring union in the present case presumably as a part of the written statement. That being so, it remains an unrefutable fact that these 12 female workers had been working in Ekra colliery and doing the job of sweepers/cleaning mazdoors as employees of the contractors.

5. I have already stated that WW-1 Ramkali has stated, in conformity with the case of the sponsoring union that all of them were transferred to Kendwadih colliery as sweepers/cleaning mazdoors and that Halima, Rajmani and Himani had already been working as sweepers/cleaning mazdoors and that Jitni Kamin who worked with them in Ekra colliery and upon her death Chote Lal, her son joined them as Sweepers/cleaning mazdoors. No formal order of transfer was either passed or has been produced as the same could not have been passed since all these 12 female workers were employees under the contractors.

The management has countered the case of the case of the sponsoring union by stating that four contractors, namely, Ramkali (Sl. No. 1), Halima (Sl. No. 13), Chote Parbati (Sl. No. 9) and Raj Mani (Sl. No. 14) are known to the management as Sweeping Contractors and rest of the persons are not known to the management. The case of the sponsoring union is that employment of workers through contractors for jobs of permanent nature is nothing but a camouflage adopted by the management in order to deprive the concerned workmen of their rightful due.

6. The management has taken up the position that there are regular sweepers and cleaning mazdoors to sweep the roads, drains etc. on day to day basis and that for the purpose of removing ash, rejection and other materials from dumps at interval of 10 to 15 days depending upon accumulation, contractors are employed on scheduled rate and that the contractors are paid after measurement of work done by them. The management has further asserted that no act of supervision of the job of contractors' men is done nor has it any control over them and that no materials or equipment is provided to contractors' workers for cleaning the dumps and that they use their own materials and equipments for cleaning the dumps. The sponsoring union has emphatically asserted that the concerned workers have been regularly working in the Kendwadih Colliery as sweepers/cleaning mazdoors and that the management exercise supervision and control over them and that the management also supply the implements for the jobs.

7. WW-2 Ramkali has stated that they have been working continuously as sweepers/cleaning mazdoors in the colliery and that in the course of their duties they do the act of sweeping and cleaning the colliery office, colliery premises, quarters, bungalows and quarter premises of workers. She has further stated that their working implements are supplied by the management and that the management issue slips for issue of materials, such as, belchias, brooms, shovels, cane baskets from stores to them and that Ram Palak Yadav, Sanitary Inspector supervises their jobs. In cross-examination she has stated that while working in the bungalows of officers she was required to clean utensils, wash clothes, dusting

and washing of floors of rooms, sweeping of bungalows etc. and that she also required to clear the garbages from bungalows.

Shri B. Joshi, Advocate for the management, has dwelt upon this testimony of this witness and submitted that the status of the concerned worker is no better than a domestic servant. It is unfortunate that the concerned workers have been subjected to indignity and humiliation in order to eke out their livelihood. This is a matter which should be deplored and not to be cited as instances of their status specially when the management has admitted in the written statement that the contractors are employed to remove ash, rejection etc. from dumps.

The management has submitted photo copy of work orders and bills in respect of their three contractors, namely, (1) Kamkali, (2) Rajmuni and (3) Chote Parbati for the years 1985 to 1988 (Exts. M-1, M-1/1 and M-1/2 respectively). It appears that work orders and bills in respect of other contractor, namely, Halima, has not been submitted by the management. MW-1 S. C. Tiwary has stated that he does not have any knowledge whether the bills and work orders submitted before this Tribunal are the complete bills and work orders in respect of the concerned workers. Evidently the work orders and bills are not the complete work orders and bills in respect of the concerned female workers because work orders and bills in respect of the contractor Halima has not been produced by the management. That apart, these work orders and bills only relate to the years 1985 to 1988 and according to MW-1 it is not within his knowledge that these are complete work orders and bills in respect of the concerned workers. Even these bills and work orders show that sometimes the workers have been paid at the rate of Rs. 14.45 per head per day and that sometimes the work orders indicate miscellaneous work of cleaning job in the bungalows. MW-1 S. C. Tiwary has stated that the concerned female workers have been engaged only for sweeping and cleaning of dumps and for no other purpose. But this statement of his is bolied even by the documents produced and relied on by the management (Exts. M-1, M-1/1 and M-1/2).

WW-1 Ram Palak Yadav is admittedly the Sanitary inspector of Kendwadih Colliery MW-1 S. C. Tiwary, Agent of Kendwadih Colliery has admitted that Ram Palak Yadav is the only Sanitary Inspector of the colliery. Sri Yadav has stated that he know the concerned female workers and stated that they have been working in Kendwadih colliery as sweepers or cleaning mazdoors since before his joining as Sanitary Inspector of the colliery. He has asserted that he has been deploying them for duties in various works and that they have been working under him and that they have been performing the jobs of sanitation which is of regular nature. According to his testimony these female workers are required to work from 8 a.m. to 4 p.m. and that as soon as they report for duty he marks their attendance and thereafter deploys them for duties with direction to perform the nature of duties they are required to perform. It is his further testimony that these female workers have been working still now and that their materials, such as, belcha, broom sticks, baskets, kudali, gaita etc. are supplied by the management. He has proved photo copy of the attendance sheets kept in respect of the concerned workers which have been marked Ext. W-1 series.

8. The testimony of MW-1 Ram Palak Yadav unmistakably establishes the fact that the concerned workers have been doing the job of sanitation work in the colliery and that their jobs are being supervised by the management and that their attendance was also used to be maintained by the management and also that the working implements of the concerned workers are supplied by the management. The attendance sheets which have been proved by WW-1 Ram Palak Yadav spread over a period from 17-9-83 to 15-8-85 with some occasional break. MW-1 S. C. Tiwary has submitted that he is not aware if earlier attendance of the concerned workers was used to be kept by the colliery and that they were paid on the basis of their attendance. He has submitted that he is not aware if the system of keeping the attendance was abandoned after the present reference had arisen. WW-1 Ram Palak Yadav has stated that the original of attendance sheets are not with him and that were submitted to the Personnel Officer. There is nothing in the evidence of this witness to indi-

cate that these attendance sheets are manufactured. On the other hand, the management has not laid any evidence to show that earlier no attendance was used to be kept in respect of the concerned workman.

The sponsoring union has submitted some requisition slips showing requisition of belcha, shoal, bamboo bars and cane baskets (Exts. W-2 to W-2/6). These requisition slips were issued in favour of the contractors.

9. Thus, from the evidence on record it is evident that the concerned workers have been working in Kendwadih colliery for long as sweepers/cleaning mazdoors and that in the course of their duties they are not only required to claim dumps occasionally as alleged by the management but also to do all jobs of sanitation, such as, sweeping and cleaning of colliery office, colliery premises, quarters, bungalows and quarter premises of the workers. It has also been established by evidence that their work is being supervised by the management and that their work implements are also supplied by the management. Although the concerned workers are employed as contractors' workmen they labour to render service for the business of the management and in such circumstances the management is the real employer and the presence of intermediate contractors with whom alone the concerned workers have immediate or direct relationship ex contractu is of no consequence. (1978 Lab. IC 1264 SC). Thus, it is seen that the management of Kendwadih colliery is the actual employer of the concerned workers.

10. The evidence on record indicates that the management has got 30 departmental sweepers. In the written statement the management has taken the plea that the concerned workers could not be engaged as casual workers as employment could not be given for sufficient number of days to earn sufficient amount. But the management has laid no evidence to prove the case that employment cannot be given for a sufficient number of days to workmen, if employed as casual workmen. However, although the demand of the union for absorption of the concerned workers and the regularisation of their service is justified, I consider that the matter of absorption and regularisation should not be directed to be made in such as to involve enormous financial constraint for the management. In the circumstances, I think that it would be prudent if the direction is given to the management for absorption of the concerned workmen in their services and regularisation not all at once but gradually after having regard to the exigencies of circumstances.

11. Accordingly, the following award is rendered the demand of Rashtriya Colliery Mazdoor Sangh for absorption of the concerned workers and their regularisation in service as Sweeping Mazdoors by the management of Kendwadih colliery of M/s. B.C.C. Ltd. is justified.

The management is directed to take action for absorption of the concerned workers and their regularisation in service by gradual process regard being had to the exigencies of circumstances.

In the circumstances of the case, I award no cost.

S. K. MITRA, Presiding Officer

[No. L-20012/211/87-D.III(A)/IR (Coal-I)]

का.प्रा. 1694.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मैसूर भारत कोयला कोल डिमिटेड की लोहापट्टी कोयिलरी के प्रबंधक से सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (सं. 1), धनबाद के पंचाद को प्रकाशित करती है, जो केन्द्रीय सरकार को 13.6.1989 को प्राप्त हुआ था।

S.O. 1694.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 1), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the Management of Lohapatti Colliery of

M/s. Bharat Coking Coal Limited and their workman, which was received by the Central Government on the 13-6-89.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

(In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947).

Reference No. 70 of 1984

PARTIES :

Employers in relation to the management of Lohapatti Colliery of M/s. Bharat Coking Coal Ltd.

AND

Their Workmen.

APPEARANCES :

For Employers—Shri G. Prasad, Advocate.

For Workmen—Sri B. K. Ghose, Member, Executive Committee, Janta Mazdoor Sangh.

STATE : Bihar.

INDUSTRY : Coal.

Dated, the 1st June, 1989

AWARD

The present reference arises out of Order No. L-20012 (195)/84-D. III(A) dated 24-8-84 passed by the Central Government in respect of an industrial dispute between the parties mentioned above. The subject matter of the dispute has been specified in the schedule to the said order and the said schedule runs as follows :

"Whether the action of the management of Lohapatti Colliery, Area No. II, M/s. Bharat Coking Coal Ltd., P.O. Mohuda, District Dhanbad in not regularising S/Shri Babuchand Mahato, Nasiruddin Mia, Noor Mohammad, Ch. Allaiddin Mia and Khedu Mahato, who are regularly working on time-rated jobs for more than 1 year as such, is justified. If not, to what relief are the workmen concerned entitled ?"

2. The dispute has been settled out of Court. A memorandum of settlement has been filed in Court. I have gone through the terms of settlement and I find them quite fair and reasonable. There is no reason why an award should not be made on the basis of Terms and Conditions laid down in the memorandum of settlement. I accept it and make an award accordingly. The memorandum of settlement shall form part of the award.

3. Let a copy of this award be sent to the Ministry as required under Section 15 of the Industrial Disputes Act, 1947.

S. K. MITRA, Presiding Officer
[No. L-20012/195/84-D. III(A)/IR (Coal-D)]
K. J. DYVAPRASAD, Desk Officer

ANNEXURE 'A'

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD.

Ref. No. 70 of 1984

Employers in relation to the management of Lohapatti Colliery of M/s. Bharat Coking Coal Limited.

AND

Their workmen.

The humble joint petition of compromise on behalf of the parties :

Most respectfully sheweth :—

1. That the Central Government, Ministry of Labour, New Delhi by a notification No. L-20012(195)/84-D.III(A) dated 24th August, 1984 has been pleased to refer the instant industrial dispute for an adjudication U/s 10(1)(d) (2A) of the Industrial Disputes Act 1947, hereinafter referred to as the Act, to this Hon'ble Tribunal. The Schedule of the reference is reproduced below for ready reference :

SCHEDULE

Whether the action of the management of Lohapatti Colliery of Area II of M/s. Bharat Coking Coal Ltd., P. O. Mohuda, Distt. Dhanbad is not regularising S/Sri Pabuchand Mahato, Nasiruddin Mia, Noor Mohammad, Ch. Allaiddin Mia and Khedu Mahato who are regularly working on time-rated jobs for more than 1 year as such is justified ? If not what relief are the workmen concerned entitled ?

2. Facts of the case.—That, the workmen concerned were originally employed as Miner/Loaders, which is in Group VA and were paid wages accordingly but subsequently they were deployed in Time rated jobs such as Drillman, Night Gurad, General Mazdoor or Timber helper on their request.

3. That, S/Sri Nasiruddin Mia was deployed as Timber Mazdoor, Noor Mohammad Mia was deployed as Night Guard, Ch. Allaiddin Mia was deployed as Driller and Khedu Mahato and Babu Chand Mahato, both, were deployed in other time rated jobs.

4. That, the attendance put by the workmen concerned during the period for the years 1982, 1983, 1984, 1985 and 1986 are given below :—

	Attendance during the year				
	1982	1983	1984	1985	1986
Nasiruddin Mia,					
T. Mazdoor	255	172	207	174	191
Noor Md. Mian,					
N. Guard	77	302	304	247	262
Ch. Allaiddin,					
Driller	50	227	241	240	271
	Attendance during the year				
	1982	1983	1984	1985	1986
Sri Khedu Mahato	54	208	10	..	147
Babu Chand Mahato	4	186	1	...	24

5. That, S/Sri Noor Md. Mian, Nasiruddin Mian, & Ch. Allaiddin Mian are found to have been working in permanent vacancy of Timber Mazdoor, Night Guard & Driller respectively.

6. That the remaining two workmen namely Sri Khedu Mahato and Babu Chand Mahato both have been working as Loaders and they have not completed the requisite number of days to qualify for their regularisation as Time rated jobs.

7. That, the representatives of the employers and workmen discussed the case mutually outside the Court and they have settled the case on the following terms and conditions.

Terms of Settlement

1. That the workmen—out of the above five workmen concerned, who have put in more than 190/240 days attendance, as the case may be during the preceding calendar years regularly shall be regularised on time rate job w.e.f. the date of the Award after obtaining approval of the competent authority.

2. That the remaining two workmen S/Shri Babu Chand Mahato and Khedu Mahato will be regularised on time rate job as soon as they complete 190 days/240 days actual/physical attendance in a Calendar year as the case may be but after approval from the competent authority.

3. That this settlement settles all disputes between the parties and the workmen concerned shall have no any claim what-so-ever.

4. That the agreement is fair and proper.

5. That it is also agreed that seven copies of this settlement be filed before the Honourable Tribunal and the Tribunal may be requested to pass an award in terms of the settlement.

It is, therefore, prayed that your honour may be graciously pleased to pass an award in terms of the settlement, and for this act of kindness the parties shall ever pray.
Representing workmen

1. Sd. (illegible)

2. Sd. (illegible)

Representing Employer

1. Sd. (illegible)

2. Sd. (illegible)

Part of the Award.

Sd/-

Presiding Officer

नई दिल्ली, 27 जून, 1989

का.प्रा. 1695.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार व सिगरानी कोलियरीज कम्पनी लिम., कोथागुडम के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधिकरण, हैदराबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार की 16.6.89 को प्राप्त हुआ था।

New Delhi, the 27th June, 1989

S.O. 1695.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Hyderabad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Singareni Collieries Co. Limited Kothagudam and their workmen, which was received by the Central Government on 16-6-89.

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL AT HYDERABAD.

Miscellaneous Petition No. 258 of 1986

Industrial Dispute No. 41 of 1985

BETWEEN :

The Workmen represented by
A. P. Colliery Mazdoor Sangh,
(I.N.T.U.C.) by its General Secretary
S. Narayana Reddy.

(Petitioner—Workmen)

AND

The Management of S. C. Co. Ltd., Kothagudam
Khamman District. (A.P.)

(Respondent—Management)

APPEARANCES :

(1) M/s. G. Bikshapathy, G. Vidya Sagar and G. C. Venkata Swamy, Advocates for the Petitioner—Workmen.

(2) Sri K. Srinivasa Murthy and Kumari G. Sudha, Advocates for the Respondent—Management.

AWARD

This is a petition filed under Section 33(A) of the I.D. Act, 1947 in I.D. No. 41/85 by the workmen, represented by A. P. Colliery Mazdoor Sangh (I.N.T.U.C.) by its General Secretary, Sri S. Narayana Reddy and the Management filed its counter.

Sarvasri G. Bikshapathy, G. Vidyasagar and G. C. Venkata Swamy, Advocates filed Vakalat for the Petitioner—Workmen and Sri K. Srinivasa Murthy and Kumari G. Sudha, Advocates filed Vakalat for the Respondent—Management.

This petition went on Several adjournments and lastly it is posted on 7-6-89 for arguments on maintainability of this petition. Today when the case was called at Bench both sides Advocates were present and counsel for the Petitioner—Workman has filed a memo stating that in view of the Award passed in I. D. No. 41/85, this petition may be closed. The Respondent—Management's Counsel also endorsed on the Memo filed by the Petitioner—Workmen.

In view of the Memo filed by the Counsel for the workmen, this petition is closed and an Award is passed accordingly.

Dictated to the Stenographer, transcribed by him and corrected by me and given under my hand and the seal of this Tribunal this the 7th day of June, 1989.

C. RAMI REDDY, Presiding Officer

[No. L-21011/2/85-D. II(B)]

Appendix of Evidence

NIL

का.प्रा. 1696.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार व मैसर्स ईस्टर्न कोलफील्ड लिम. की बान्सा कोलियरी के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

S.O. 1695.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bansra Colliery of M/s. Eastern Coal Fields Limited and their workmen, which was received by the Central Government on the 15-6-89.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

Reference No. 64 of 1982

PARTIES :

Employers in relation to the management of Bansra Colliery, Messrs. Eastern Coalfields Limited, Post Office Raniganj, (Burdwan).

AND

Their Workmen.

APPEARANCES :

On behalf of employers : Mr. M. N. Kar, Advocate.

On behalf of workmen : Mr. Amalesh Mitra, Counsel with Mr. S. K. Basu, Advocate.

STATE : West Bengal.

INDUSTRY : Coal.

AWARD

By Order No. L-19012(71)/82-D.IV(B) dated 19th August, 1982, the Government of India, Ministry of Labour, referred the following dispute to the Central Government Industrial Tribunal No. 3 Dhanbad for adjudication. Subsequently the Government of India, Ministry of Labour, by Order No. S-11025(5)/82-D.IV(B) dated 8th November, 1982, transferred the said dispute to this Tribunal for adjudication :

"Whether the action of the Management of Bansra Colliery, Messrs. Eastern Coalfields Limited, Post Office Raniganj, (Burdwan) in superannuating Shri Subrati Mia, Explosive Carrier, with effect from 4-12-1980 is justified? If not, to what relief the concerned workman is entitled?"

2. The case in brief as made out in the written statement and rejoinder of the Union sponsoring the cause of the workman concerned Subrati Mia is as follows: Subrati Mia, the concerned workman had been working in the colliery of the company since his appointment in 1964 and his service conditions were guided by the Standing Orders of the Company. There was no provision for any retiring age in the said Standing Orders and as such the company was obliged to employ a workman so long as he was physically fit to work. The employer colliery however unilaterally and unjustly fixed the retirement age of the concerned workman at 60 years. According to the provisions of the Standing Orders every workman was given identity card and the year of birth of the workman concerned was recorded in the said identity card. In the Identity card issued to Subrati Mia, the year of birth was shown as 1930. The said year of birth of Subrati Mia was taken from the original B Form Register maintained by the erstwhile employer of the concerned workman. So even if it be assumed that there was the retiring age of the workman at 60 years the concerned workman was illegible to work upto December, 1990. The Agent of the Employer Colliery however served a notice of retirement dated 1-11-1980 upon the workman concerned intimating him that he should have to retire with the expiry of 30 days from the date of the notice on his attaining the age of 60 years. The workman concerned lodged his protest against the said retirement notice by his letter dated 5-11-1980 stating therein that he had more 10 years service to attain the age of superannuation. The employer colliery however terminated the service of the concerned workman with effect from 4-12-1980. The workman concerned protested against the said illegal retirement by his letter dated 29-12-1980 stating therein that his year of birth was 1930. The employer colliery by their letter dated 2/3-1-1981 informed the workman concerned that according to the B Form Register his year of birth was 1916 and that according to the A Form Register of the C.M.P.F. his year of birth was 1920. The employer colliery on representation of the Union sponsoring the cause of the workman, referred the workman to the Medical Board for determination of his age, long after getting him retired. The employer however did not consider the year of birth as recorded in the identity card of the workman issued by the employer. After 4 months from the retirement of the concerned workman, the employer got the Medical Board's report stating that his year of birth was 1920. The employer illegally got the workman concerned retired, although his year of birth was 1930 according to the identity card. The union took up the cause of the concerned workman and approached the Conciliation Officer whose failure report resulted in the present reference.

3. The case of the employer company as made out in the written statement and rejoinder is briefly as follows: The concerned workman had been working in the colliery since the time of its erstwhile owner. In the B Form Register maintained at the colliery, his date of birth was recorded as 1916 on the basis of the age recorded in the B Form Register of the erstwhile colliery. The employer issued the notice of retirement dated 30-10-1979 asking the concerned workman to retire with the expiry of 30 days from the date of the notice. The workman concerned submitted a representation against the said notice of retirement and claimed that his year of birth was recorded in the records of the C.M.P.F. as July, 1920 and that as such he did not reach the age of superannuation. The employer on the basis of the year of

birth recorded in the C.M.P.F. records issued the retirement notice dated 1-11-1980 intimating that the retirement of the workman concerned would be effective with the expiry of 30 days from the date of the said notice. The employer got the workman concerned retired with effect from 4-12-1980. The identity card relied on by the workman concerned was not shown to the employer during the conciliation proceedings or at any other subsequent stage and as such the employer company is not able to make any comment in regard to the genuineness or otherwise of the said identity card. Because of the representation of the Union sponsoring the cause of the workman and because of the discrepancy in the year of birth as recorded in the B Form Register and as noted in the records of the C.M.P.F., the employer referred the concerned workman to the Medical Board even after his retirement for determination of his age and the Medical Board gave the report stating the year of birth of the concerned workman as 1920. The action of the employer company in retiring the concerned workman with effect from 4-12-1980 on the basis of the year of birth as recorded in the C.M.P.F. records thus got the support from the report of the Medical Board. The employer was therefore justified in retiring the concerned workman with effect from 4-12-1980.

4. Both parties have adduced evidence oral and documentary. The important questions for determination in this reference are what was the year of birth of the workman concerned and whether the action of the employer in getting the workman retired with effect from 4-12-1980 has been justified.

5. The Union sponsoring the case of the workman has stated in the written statement and rejoinder that the workman's year of birth has been shown as 1930 in his identity card and that the same was reported also in the Union's letter dated 29-12-1980 and that the workman in his letter dated 5-12-1980 protesting against the employer's retirement notice dated 1-11-1980 averred that his actual age was then 50. In the written statement and rejoinder the Union has however not stated in specific terms that the workman's year of birth is 1930.

6. The Union has examined two witnesses. WW-1 Sunil Sen is the Organising Secretary of the Union and WW-2 is Subrati Mia, the concerned workman. Both WW-1 and WW-2 have stated in their evidence that as per the identity card Ext. W-1 of the workman, his year of birth is 1930. Both of them have given evidence on oath. The workman (WW-1) Subrati Mia has stated in his evidence on oath that he was born in 1930. No other witness including any relative of Subrati Mia has come to say on oath that year of birth of Subrati Mia is 1930. The workman concerned (WW-2) has not stated in his evidence about the source from whom or from which he knew that he was born in 1930. The employer has challenged the said year of birth. Such being the position, workman's own evidence regarding his age cannot be relied on.

7. The Union in their written statement has stated that there was no retiring age of the workman like Subrati Mia and that such workman is allowed to work so long as he is physically fit. Union's Organising Secretary (WW-1) has however stated in his evidence that the retirement age of a workman in the colliery is 60 years. According to this WW-2, the year of birth of the concerned workman, noted in the identity card Ext. W-1 was taken from the B Form Register of the erstwhile management of the colliery. It appears from the identity card Ext. W-1 of Subrati Mia that his year of birth has been noted there as 1930.

8. The employer company has challenged the genuineness of the identity card Ext. W-1 through the evidence of MW-1 Arun Chandra Das Sarkar, Senior Personnel Officer of the employer company. The employer company in their rejoinder has stated that the issue of the identity cards to the workmen was introduced after the nationalisation of the collieries and that sometimes meticulous care was not taken in filling up the items in the identity card with regard to the year of birth with reference to the B Form Register which records the year of birth of every workman under the statutory rules.

It has been further stated that the employer has not been shown the identity card relied on by the workman and that the employer company accordingly is unable to make any submission at this stage as to the genuineness of the identity card.

9. It appears that MW-1 after seeing the identity card Ext. W-1 has challenged its genuineness. He has stated in his evidence, "This alleged identity card Ext. W-1 of Subrati Mia does not bear the signature of any dealing assistant and of the Manager. This identity card is not genuine." He has however admitted in his evidence that generally in the identity card of the workman the year of birth is filled up on the basis of the B Form Register.

10. The identity card Ext. W-1 of the concerned workman like the identity card of another workman Ext. M-10, does not contain the signature of the dealing assistant in the card itself and of the Manager on the photograph of the concerned workman. The disputed identity card Ext. W-1 however bears the rubber stamp of the Manager but does not appear to bear his signature. Mr. Mitra, the Learned Counsel for the Union has drawn my attention to one small initial below the T.I. of the concerned workman on the identity card Ext. W-1 and has submitted that the said small initial may be the initial of the dealing assistant. The identity card Ext. M-10 of another workman clearly bears the signature of the dealing assistant and of the Manager unlike the disputed identity card Ext. W-1.

11. Besides the above, the concerned workman's own typed letter dated 9-11-1979 Ext. M-2 written to the Agent of the employer Company in response to employer company's retirement-notice dated 30-10-1979 Ext. M-1 shows that concerned workman's year of birth was typed as "1920" which was however subsequently made as "1928" by overwriting in ink the digit '8' on the digit '0' and the typed letter 'a' on the last line of the first paragraph of the said letter has been made '9' by overwriting in ink and that the letter's has been added to the word 'year' in the said last line. MW-1 Mr. Das Sarkar has stated in his evidence that the year '1920' in the said letter Ext. M-2 has been interpolated by the figure '1928' and that letter 'a' has been similarly interpolated by the digit '9'. This MW-1 has further stated in his evidence that Manager's endorsement for checking on Ext. M-2 is Ext. M-2(a) and his own endorsement on Ext. M-2 after checking the Form-A of C.M.P.F. is Ext. M-2(b). The aforesaid two endorsements Ext. M-2(a) and Ext. M-2(b) when considered with the workman's letter Ext. M-2 go to show that MW-1 got checked the workman's year of birth typed as 1920 in Ext. M-2, with workman's year of birth as recorded in Form-A of C.M.P.F. MW-1 as the concerned officer worked upon the workman's letter Ext. M-2 as per direction from the Manager, on receipt of the letter Ext. M-2. MW-1 has said on oath that the letter Ext. M-2 has been interpolated by converting the typed figure '1920' into '1928' and by overwriting the digit '9' on the letter 'a'. Such evidence of MW-1 has not been challenged by the Union at the time of the cross-examination of MW-1. Further in the written statement filed by the employer in October 1982, it has been clearly stated that in reply to employer's retirement notice dated 30-10-1979, the workman submitted the representation stating his year of birth as July, 1920. So the evidence and facts and circumstances as discussed above prove that the figure '1920' typed in Ext. M-2 as the year of birth of the workman has been made '1928' by interpolation and that other consequential interpolations were also made in the said letter. While arriving at the above finding, I have not lost sight of the fact that the workman's letter Ext. M-2 has come from the custody of the employer company. The question their naturally arises how the concerned workman will get the opportunity of interpolating the letter Ext. M-2. The letter Ext. M-2 itself and other evidence show that concerned workman Subrati Mia is illiterate. In the circumstances it is not my finding that the concerned workman himself made the subsequent interpolation but the facts and circumstances establish that some literate employee of the employer company or any other literate person who got the opportunity of handling this letter Ext. M-2, made such interpolation at the instance of the concerned workman.

12. It has already been mentioned that workman's said letter Ext. M-2 is the date 9-11-1979. The mention of typed figure '1920' as the year of birth of the mention of the interpolated figure '1928' as the year of the workman in Ext. M-2 clearly show that the disputed identity card Ext. W-1 mentioning the year of birth of the workman as 1930 was either not in existence or not in possession of the workman when Ext. M-2 was sent by the workman on 9-11-1979.

13. In the circumstances as mentioned above, no reliance can be placed on the identity card Ext. W-1 about the concerned workman's year of birth. Eastern Coalfields Limited's circular dated 13-9-1977 Ext. M-6 sent to all the Area Managers shows that the workman's age as recorded in the B Form Register should normally be accepted. It further shows that in case there is any difference in the recording of age in Form B Register and that in the C.M.P.F. register, the age recorded in the C.M.P.F. register, if free from all doubts regarding interpolation etc. would be accepted and that if the C.M.P.F. record is not specifically clear and keeps a doubt about the correctness, the age of the workman should be assessed by the Age Determination Committee of the Area concerned which is already existing.

14. The employer Company could not produce the B Form Register of the erstwhile colliery where the concerned workman was first employed. The employer company has however produced the B Form Register prepared after the nationalisation of the collieries. The relevant entry in that B Form Register in respect of the concerned workman is Ext. M-11. It appears therefrom that the year of birth of the concerned workman has been recorded as 1916 thereon. It is not clear on the basis of what service record of the workman the employer company issued the retirement notice dated 30-10-79 Ext. M-1 stating that the workman has attained the age of 60 years. If 1916 was the year of birth on the basis of the B Form Register entry Ext. M-11, then the employer could have stated in the retirement notice Ext. M-1 that the workman had attained the age of 60 years in 1976. Be that as it may, it appears that on workman's representation as per Ext. M-2 in reply to employer's retirement notice Ext. M-1, the employer company issued the fresh retirement notice dated 1-11-1980 Ext. M-4 stating that the workman concerned had attained the age of 60 years then. MW-1 Mr. Das Sarkar has stated in his evidence that the retirement notice dated 1-11-1980 Ext. M-4 was issued on the basis of the A Form of C.M.P.F. It appears from the C.M.P.F. Commissioner's letter dated 29-5-1966 Ext. M-3 with its enclosures of which one is A Form Ext. M-3(a) and another is Form H Ext. M-12 that the Commissioner sent the declaration in Form A to erstwhile Colliery for re-submission of the same after necessary correction as the same had been found to be defective. MW-1 Mr. Das Sarkar has stated in his evidence that he obtained the declaration in A Form Ext. M-3/a from the dealing clerk of C.M.P.F. of E.C.L. His evidence further show that he was the Personnel Officer of the concerned Bansra Colliery from July 1979 to June 1981. His evidence and his endorsement Ext. M-2/b on the workman's representation dated 9-11-1979 Ext. M-2 clearly show that he obtained Ext. M-3 with its enclosures Ext. M-3/a and Ext. M-12 for the purpose of checking the workman's year of birth as per the A Form Ext. M-3/a. Nowhere it has been stated in the letter Ext. M-3 that A Form Ext. M-3/a was defective with particular reference to the year of birth itself.

15. In the A Form Ext. M-3/a, the year of birth has been recorded as July 1920. MW-1 Mr. Das Sarkar has stated in his evidence that the retirement notice dated 1-11-1980 Ext. M-4 was given on the basis of the declaration in A Form. Mr. Mitra the Learned Counsel for the Union has submitted that in the retirement notice dated 1-11-1980 Ext. M-4, it has been stated "—you have now attained the age of 60 (sixty) years—" implying thereby that on 1-11-1980 the workman attained the age of 60 years, and that accordingly the employer did not give the retirement notice Ext. M-4 on the basis of A Form which says that workman's year of birth is July, 1920. Mitra has drawn my attention to employer's Office Order dated 4-12-1980 Ext. M-5 which shows that the employer advised the Time Keeper to stop the attendance of the workman from 4-12-1980 and submits that the employer allowed the workman to work not only beyond July 1980

but also beyond 1-12-1980 thereby giving a go by to the year of birth recorded in A Form.

16. Mr. Kar, the Learned Advocate appearing for the employer company has on the other hand submitted that the employer gave the retirement notice Ext. M-4 on the basis of A Form but some mistake was made in Ext. M-4 by using the word 'now' in the said notice. As regards the advice for stopping the attendance from 4-12-1980, Mr. Kar has drawn my attention to the evidence of MW-1 who has stated that because of the misplacement of record, in the Office Order Ext. M-5, the workman was directed to retire from 4-12-1980. In the Office Order Ext. M-5, actually the time Keeper was advised to stop the attendance of the workman along with some others from 4-12-1980.

17. The aforesaid irregularities do not however appear to be so fatal as to make ineffective the year of birth mentioned in the A Form Ext. M-3/a as 1920. It has already been shown that the workman did mention his year of birth as 1920 in his letter Ext. M-2 to the employer. The workman (WW-2) has admitted in his evidence that Sunil Babu (Organising Secretary of the Union) has made written representation before the employer company that workman's age which was in the Provident Fund papers should be taken as the workman's age in the records of the employer company. Be that as it may, it appears that for the first time the workman in his letter dated 5-11-1980 Ext. W-3 in reply to employer's retirement notice dated 1-11-1980 (Ext. W-2) which corresponds to Ext. M-4, stated that his actual age was 50 years at the time of giving that letter dated 5-11-1980. The workman could have stated so in his letter dated 9-11-1979 Ext. M-2 which was given by him in reply to employer's retirement notice dated 30-10-1979 Ext. M-1, but he did not. In the facts and circumstances as mentioned above, no reliance also can be given to workman's such statement in his letter dated 5-11-1980 Ext. W-3.

18. The declaration in Form A Ext. M-3/a with regard to Subrati Mia does not appear to be clouded with doubt regarding interpolation etc. So the employer company rightly got the workman retired on the basis of year of birth as recorded in A Form of C.M.P.F., although erroneously with effect from 4-12-1980. The said error however benefited the workman by allowing him to work for more days beyond his retirement age but the said error does not establish that the employer accepted the workman's year of birth as 1930.

19. Mr. Mitra, Learned Counsel for the Union has drawn my attention to employer's note-sheet dated 20-12-1980 Ext. M-8 which shows that the Personnel Manager of the employer company, sent the concerned workman to the Age-Determination Committee constituted for the purpose for assessment of his age as the CITU and INTUC unions made the representation before the employer that there was interpolation in B Form and that the age entered in B Form and Form A of C.M.P.F. does not tally, and as the same created doubt. According to Mr. Mitra, this note-sheet Ext. M-8 has given a go by to the retirement order and to the year of birth as recorded in A Form of C.M.P.F. Mr. Kar for the employer has submitted that employer did not set aside the retirement of the workman already made effective from 4-12-1980 but on humanitarian ground on representation from CITU and INTUC, sent the workman to the Age-Determination Committee for assessment of his age.

20. On perusal of the note-sheet Ext. M-8 vis-a-vis the circular Ext. M-6 about the superannuation of the workman, I find that the employer's action in sending the workman to the Age-Determination Committee has not been in accordance with the said circular Ext. M-6 and accordingly has not been justified. The note-sheet Ext. M-8 does not indicate at all that the employer had any doubt regarding the interpolation about the age recorded in A Form and that A Form of C.M.P.F. was not specifically clear and cast a doubt about the correctness of the age recorded therein. Such being the position, the employer did not acquire jurisdiction as per the Circular Ext. M-6 to send the workman to the Age-Determination Committee for assessment of his age.

21. The report of the Age Determination Committee about the workman is Ext. M-9. It appears therefrom that the Committee determined the year of birth of the workman as July

1920. None of the Committee members who gave the said report has been examined. The date of examination and reasons for such report have not been furnished in the report. No X-ray or ossification test of the workman was made. Such being the position no reliance can be given on such report. It has already been stated that the employer had acquired no jurisdiction under the circular Ext. M-6 to send the workman to the Age-Determination Committee.

22. In view of what has been discussed above, I find that irrespective of the Age-Determination Committee's report Ext. M-9, other materials in the record have established that employer company was justified in getting the concerned workman retired on the basis of the year of birth as recorded in A Form of C.M.P.F. Ext. M-3/a and that the action of the employer company in retiring the workman with effect from 4-12-1980 in the facts and circumstances of the case is not unjustified. The workman is not entitled to get any relief in this reference.

This is my Award.

Dated, Calcutta,

The 7th June, 1989.

SUKUMAR CHAKRAVARTY, Presiding Officer

[No. L-19012/71/82-D.IV(B)]

वा.प्र. 1697.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार व भारती खाद्य निगम, पटना के प्रबंधन के सम्बन्ध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, सं. 2, धनबाद के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को 19-6-89 को प्राप्त हुआ था।

S.O. 1697.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 2 as shown in the Annexure in the industrial dispute between the employers in relation to the management of Food Corporation of India, Patna and their workmen which was received by the Central Government on 19-6-1989.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD
Reference No. 6 of 1989

In the matter of Industrial Dispute under Section 10(1)(d) of the I. D. Act, 1947

PARTIES :

Employers in relation to the management of Food Corporation of India, Patna and their workmen.

APPEARANCES :

On behalf of the workmen—Shri V. Kumar, Authorised Representative.

On behalf of the employers—Shri R. P. Bajpai, Dy. Manager (P).

STATE : Bihar

INDUSTRY : Food

Dated, the 9th June, 1989

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-42018/16/88-D. 4(B) dated, the 16th March, 1989.

SCHEDULE

Whether the action of the Management of Food Corporation of India in retrenching Sri Manoj Kumar

w.e.f. 24-4-84 without observing conditions laid down under Section 25-F of the I. D. Act, also when his appointment was on compassionate ground, is legal and justified? If not, to what relief the workman concerned is entitled?"

The case of the concerned workman Shri Manoj Kumar is that he was appointed as a casual Typist by the Senior Regional Manager, FCI, Patna vide his order dated 15-3-83. He joined his post on 15-3-83 at the Regional Office at Patna. He was discharging his duties properly. All on a sudden an order was passed by the Senior Regional Manager on 24-4-84 by which he was retrenched from the service without any notice, notice pay or compensation as provided under section 25-F or 25-N of the I. D. Act, 1947. The management had neither taken any permission from the appropriate Government prior to the order of termination of the services of the concerned workmen nor given any intimation even thereafter. There is no certified standing order in respect of the workmen and as such Model Standing Order is applicable in the case of the concerned workman. After the termination of the concerned workman many persons were appointed as Typist in the years 1984 and 1985 but the concerned workman was not given any opportunity in the said appointment. The concerned workman submitted several representations before the management but his case was not considered. There are more than 5000 workmen working under the Senior Regional Manager, Patna. The concerned workman had already worked for more than 240 days in a year continuously and as such his termination/retrenchment is in contravention of Section 25-F and 25-N of the I. D. Act and thus the termination is unjustified, illegal and void. The concerned workman therefore is entitled for his reinstatement and back wages with all other benefits. The concerned workman raised an industrial dispute under Section 2(A), of the I. D. Act before the ALC (C) Patna and on failure of the conciliation proceeding started by the ALC (C) the present reference was made to this Tribunal for adjudication.

Shri A. Faridi the then Senior Regional Manager, FCI Patna who had appointed the concerned workman as Typist was the competent authority to make appointment of Class III employees including the concerned workman either on regular basis or on casual basis. The date of birth of the concerned workman according to his Matriculation certificate is 25-7-1968. The minimum age for regular appointment in the service of FCI is 18 years but there is provision for relaxation in age and qualification in respect of the dependent of the staff who died in service or medically retired. The Zonal Manager is the competent authority for relaxation in the age or qualification. Shri Satish Kumar Ag-II (M), Shri R. P. Sukla, Watchman were appointed against regular post by relaxing minimum age by the competent authority as they were below 18 years of age at the time of their appointment. The age is not a bar for employment against appointment on casual basis and as such the employment of the concerned workman on casual basis cannot be challenged. The appointment of the workman against casual typist and proposed appointment against regular post are separate matters and cannot be inter-linked. The approval was asked for from the Zonal Office for appointment of the concerned workman against regular post on the ground of death of his father. But there was no need of any approval for employment of the concerned workman on casual basis as the Sr. Regional Manager, Patna was the competent authority to make such appointment. The concerned workman's appointment was on casual basis and not on compassionate ground as appointment on compassionate is made on regular post and regular basis. Shri Sanjoy Kumar, Elder Step brother of the concerned workman was appointed in the FCI on compassionate ground. On the above facts it is prayed that the order of termination of the services of the concerned workman dated 24-4-84 be set aside holding that retrenchment of the concerned workman was in contravention of Section 25-F of the I. D. Act and hence it was illegal and void and that the concerned workman is entitled for reinstatement with effect from 24-4-84 with full back wages.

The case of the management is that late Ram Naresh Sinha, father of the concerned workman died on 18-2-82 while he was working as an Asstt. Manager, Accounts in the Patna Office of the FCI. Smt. Kanti Sinha widow of late

Ramnaresh Sinha made an application to the Senior Regional Manager, FCI Patna on 25-11-82 stating that her son Manoj Kumar, a student of I.Sc. who is aged about 17 years knows typing and should be appointed on compassionate ground. She also stated in her petition that her other son is reading in Engineering class and as such he does not want to disturb his career. The application of Smt. Sinha was forwarded to the Zonal Office of FCI, Calcutta. The Zonal Office of FCI, Calcutta asked for matriculation certificate of Manoj Kumar. In the matriculation certificate the date of birth of the concerned workman was recorded as 25-7-68. The minimum age for entering into service of FCI is 18 years. The Zonal Office, FCI at Calcutta by letter dated 25-10-83 communicated to the Senior Regional Manager, Patna that Smt. Manoj Kumar is under age and as such the request of Smt. Kanti Sinha cannot be acceded to. Smt. Kanti Sinha vide letter dated 14-2-84 was communicated that her representation cannot be acceded as her son was below 18 years of age. Surprisingly the concerned workman was engaged as casual typist on consolidated amount of Rs. 500 per month with immediate effect on compassionate ground vide office order dt. 15-3-83 under the signature of Shri Manojan the then Dy. Manager, Personnel or Regional Office, FCI Patna. The concerned workman was engaged as casual typist without waiting for the order from the Zonal Office at Calcutta and the concerned workman had already joined as casual typist on 15-3-83. The concerned workman obtained the appointment through dubious method by prevailing upon the then Dy. Manager (P)/SRM. The initial appointment of the concerned workman being illegal and void ab initio he was not entitled to any legal protection as provided under the law. The order of appointment of the concerned workman was clearly illegal as he was below the age required for entering in the service and hence there was no question of consideration of the application under section 25-F of the I. D. Act in the case of the concerned workman. In view of the Zonal Office order dated 14-2-84 the services of the concerned workman was terminated vide office order dated 24-4-84. The dispute was raised on behalf of the concerned workman before the ALC (C) Patna vide letter dated 7-5-84 of the FCI, Executive Staff Union, Eastern Zone, Bihar State Committee. The said dispute before the ALC (C) Patna was withdrawn by letter dated 13-7-84, after an understanding was reached between the union and the management that Sanjay Kumar another son of late Ramnaresh Sinha/Smt. Kanti Sinha be considered and appointed. In pursuance of the said agreement reached between the union and the FCI Shri Sanjoy Kumar was appointed to the post of T.A. Grade-III vide office letter dated 26-9-84 and since then Shri Sanjoy Kumar is working in the FCI. Thereafter the concerned workman raised an industrial dispute vide his application dated 3-11-87 under Section 2-A, of the I. D. Act before the ALC (C) Patna. On compassionate ground 2 sons of a deceased employee cannot be offered appointment. After the withdrawal of the dispute on behalf of the workmen by the union on the condition that Sanjoy Kumar brother of the concerned workman, was given appointment, the raising of the Industrial Dispute by the concerned workman is fraudulent act and as such the concerned workman is not entitled to any relief. The right provided under Section 25-F of the I. D. Act springs from a legal right to validly hold the post and the protection as provided under Section 25-F of the I. D. Act is a right consequential to a valid appointment. Neither the Senior Regional Manager/Dy. Manager Personnel is authorised or competent to relax the age for initial appointment and as such for the illegal acts of the SRM/Dy. Manager Personnel FCI cannot legally bind FCI. As the initial appointment of the concerned workman was illegal, no legal protection is available. On the above facts it is submitted that the reference be decided in favour of the management holding that the concerned workman is not entitled to any relief.

The point for decision in this case is whether the action of the management of FCI in retrenching the concerned workman Shri Sanjoy Kumar with effect from 24-4-84 without observing the condition laid down under Section 25-F of the I. D. Act is legal and justified when his appointment was on compassionate ground.

The concerned workman examined two witnesses including himself in support of his case. The management did not examine any witness. The document of the concerned workman has been marked Ext. W-1 to W-3 and the document of the management is marked as Ext. M-1.

It is the admitted case of the parties that late Ram Nareish Sinha died on 16-2-82 while he was in service at the Regional Office of FCI at Patna. It is also admitted that Smt. Kanu Sinha wife of late Ram Nareish Sinha had filed a representation before the Senior Regional Manager, FCI Patna on 25-11-82 for providing employment to the concerned workman Manoj Kumar son of late Ram Nareish Sinha on compassionate ground. Ext. W-1 is the said representation of Smt. Kanu Sinha dated 25-11-82. A copy of the said representation was also sent to the Zonal Manager, East, FCI, Calcutta. There is a note endorsed to the Senior Regional Manager, Bihar on Ext. W-1 forwarding the case with his recommendation for taking necessary action in the Zonal Office. It will appear from the case of the parties that application of Smt. Kanu Sinha was forwarded to the Zonal Office, FCI, Calcutta and that vide letter dated 25-10-83 the Zonal Office of FCI, Calcutta communicated to the SKM, Patna that as the concerned workman Shri Manoj Kumar is under age and as such the request of Smt. Kanu Sinha cannot be acceded to and thereafter Smt. Kanu Sinha vide letter dated 14-2-84 was communicated that her representation cannot be accepted, as his son is below 18 years of age. It is also admitted that in the meantime vide office order dated 15-3-83 issued under the signature of Shri D. N. Mahajan the then, Dy. Manager, Personnel, Regional Office, Patna the concerned workman was employed as a casual typist on consolidated amount of Rs. 360 per month with immediate effect. Ext. W-1 is the office order dated 24-4-84 which shows that the services of the 3 persons named therein appointed on casual basis were terminated with effect from the date of issue of the order. It includes the name of the concerned workman Manoj Kumar appointed as a casual typist vide Regional Office, FCI Patna letter No. A-1(1)/77 Typist dated 15-3-83. It also shows that the concerned workman was appointed on 15-3-83 in I.R. cell, Regional Office, Patna. This is signed by the Dy. Manager (P), Shri V. S. Thakur for SRM. It is clear therefore that the concerned workman had worked as casual typist from 15-3-83 to 24-4-84. There is no mention that the appointment of the concerned workman as casual typist was on compassionate ground. The appointment of the concerned workman w.e.f. 15-3-83 could not be on the basis of compassionate ground as the representation of Smt. Kanu Sinha dated 25-11-82 was pending with the Zonal Manager, FCI, Calcutta. It will also appear from the case as made out in the W.S. of the management that when an industrial dispute was raised by the union on behalf of the concerned workman a settlement was arrived at by which Sanjoy Kumar was given appointment on compassionate ground. Thus it appears that the appointment of the concerned workman as casual typist was not on the basis of compassionate ground. The office order Ext. W-1 will show that 2 other casual typists were terminated along with the concerned workman with effect from the same date and there is no evidence that the other 2 persons named in Ext. W-1 had also been appointed as casual typist on compassionate ground.

WW-2 is the concerned workman Shri Manoj Kumar. He has stated that the Senior Regional Manager had engaged him as casual typist and he had continuously worked as casual typist from 15-3-83 to 24-4-84 in the industrial relations Section of Regional Office, FCI Patna. He has stated that all on a sudden his work was stopped by the management on 24-4-84 without giving him any notice pay or retrenchment compensation at the time of the stoppage of his work. He also stated that no notice was given to him prior to or after the termination of his services. The management had not also assigned any reason for the stoppage of his work. He has also stated that no disciplinary proceeding had been taken against him before stoppage of his work. His evidence that no reason was assigned for the termination of the services is apparent from the office order Ext. W-1 which assigns no reason regarding the termination of the services of the concerned workman and 2 other casual typists. In cross-examination he has stated that Shri A. A. Faridi, Senior Regional Manager had engaged him as a casual typist. He has stated that he had met Shri Faridi after the death of his father and had requested him for giving him employment. The concerned workman had told him that he knew typing and thereafter he was engaged as a typist after holding a test in Type writing. He has admitted that he was less than 18 years of age at the time of appointment and that he was not medically examined. He has stated that his brother Shri Sanjoy Kumar was engaged in FCI after the stoppage of his work. WW-1 Shri Bhagirath Pd. Singh

was working as an Asstt. Grade-III Min in Industrial Relations Section of Regional Office, FCI at Patna during 1983-84. He has stated that the concerned workman was attached to his office as casual typist. He has further stated that the concerned workman was appointed by Shri A. Faridi, Senior Regional Manager, FCI who was the competent authority to appoint or take disciplinary action against Class III and IV employees of FCI. He has stated that typists are Class III employees of FCI. He has also stated that the concerned workman used to mark his attendance in IR Section and had worked continuously from 15-3-83 to 24-4-84 and that his services were terminated vide office order Ext. W-1. He has stated that the concerned workman had not been paid any notice pay or retrenchment compensation and that he had not been given any notice of termination of his services. He has further stated that no intimation of the termination of the services of the concerned workman was given to the appropriate Government by the management of FCI. He has stated that about 5000 employees are working under the SRM of FCI Patna and that there is no age limit for the appointment of casual employees of FCI. He has also stated that the Zonal Manager (East) of FCI is the competent authority to relax the age and qualification for the appointment in the FCI in respect of the dependent of deceased employee. He has given examples of 2 persons who were authority to relax the age and qualification for the appointment of appointment. According to him an appointment made on compassionate ground is a regular appointment and not on casual appointment. Thus it will appear from his evidence that the appointment of the concerned workman as casual typist was not on compassionate ground as in the case of appointment made on compassionate ground his appointment would have been regular appointment and not casual appointment. Towards the end of his examination-in-Chief he has stated that the concerned workman was engaged along with others as casual typist not on compassionate ground but having some sympathy as his father had died sometimes back. In cross-examination he has stated that there is no specific mention regarding the minimum and maximum age of appointment of a casual employee in the FCI and that there is no provision in the Staff Regulation for appointment of casual employees. His evidence will further show that the concerned workman was not medically examined nor his name had been forwarded from the Employment Exchange. He has stated that the concerned workman had received the order of appointment but he had not received offer of appointment like that of regular employee. He has stated that Shri Sanjoy Kumar brother of the concerned workman was appointed on regular basis in 1985 on compassionate ground on the ground of the death of his father.

It will thus appear from the evidence discussed above that the concerned workman was appointed as a casual typist and had worked continuously from 15-3-83 to 24-4-84 and that he had completed attendance of more than 240 days in a year. The said fact is not disputed by the management. Neither there is any statement to the effect that the concerned workman had not completed attendance of 240 days in a year nor the management has tried to falsify the said claim of attendance by producing the attendance register which is admittedly with the management. It will also appear that the appointment of the concerned workman as casual typist was not on compassionate ground but the Senior Regional Manager of FCI at Patna had some sympathy in appointing the concerned workman as casual typist because of the death of his father.

A notification No. 35 dated 31-1-86 of the FCI India Head Office substitutes the existing provision of Appendix II of the FCI (Staff) Regulation 1971. In respect of Cat. III employees in the Regional Office/District Office/Port Office the appointing authority is the Regional Manager/Joint Manager and the authority competent to relax age limit and qualification is the District Zonal Manager/Senior Regional Manager. Thus it will appear that the Regional Manager and Joint Manager were competent authority to appoint Cat. III employees. The evidence shows that the concerned workman was appointed by Shri A. Faridi Senior Regional Manager, Regional Office, FCI Patna. The management did not produce any order to show that the concerned workman was not appointed by the Senior Regional Manager Staff Regulation 1971, Regulation 1 provides for the mode

of appointment. It first provides in respect of regular appointment in the services of the FCI. Regulation 7(2)(a) provides the authority who can relax the specified age limit in case of persons with exceptional qualifications and experience. Regulation 7(3)(c) provides that appointment may be made to any post in FCI on a purely temporary basis for a period not exceeding one year. Thus the appointment of the concerned workman on casual/temporary basis by the Senior Regional Manager was in accordance with the rules and Regulations of FCI. Regulation 19 provides termination of services and discharge. Regulation 19(2) provides that the services of any employee appointed under sub-section (b) or sub-clause (c) of clause 3 of Regulation 7 may be terminated by the competent authority on giving him 30 days notice or pay and allowance in lieu thereof. Thus even the Staff Regulation was provided a notice of 30 days before terminating the services of a temporary employee.

Section 25-F of the I. D. Act provides that no workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until (a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice, (b) the workman has been paid at the time of retrenchment, compensation which shall be equivalent of 15 days average pay for every completed year of continuous service or any part thereof in excess of 6 months (c) notice in the prescribed manner is served on the appropriate government or such authority as may be specified by the appropriate Government by the notification in the Official Gazette. The evidence of the two witnesses examined on behalf of the workmen shows that neither of the 3 clauses of Section 25-F of the I. D. Act had been complied with by the management while terminating the services of the concerned workman who had admittedly completed service of more than one year in the Regional Office of FCI Patna. Neither notice pay nor one month's notice nor retrenchment compensation was given to the concerned workmen before terminating his services. The management also did not comply the notice which is to be served on the appropriate Government as required under Clause (c) of Section 25-F. Section 2(oo) of the I. D. Act defines retrenchment which means the termination by the employer of the services of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action but does not include (a) voluntary retirement of the workmen (b) retirement of the workmen on reaching the age of superannuation (bb) termination of the services of workmen as a result of non-renewal of the contract of employment between the employer and the workmen concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein and (c) termination of the services of a workman on the ground of continued ill health. Admittedly, the services of the concerned workman was not terminated as a punishment inflicted by way of disciplinary action. The other 4 exceptions also are not applicable in the case of the concerned workman as such the termination of the services of the concerned workman was a clear case of retrenchment. In this connection it would be useful to refer to only one decision of Hon'ble Patna High Court reported in Lab I.C. 1984 page 1651 (Desh Raj Sood and Industrial Tribunal). It was held by their Lordship leaving put, their reliance on the case of Sudarmoni reported in AIR 1976 Supreme Court BC 1111—1976 Lab I.C. 769 that "whether the termination of service is brought about by voluntary or involuntary action, whether that result is produced by overt act or by operation of the provision of Standing Order the termination would be retrenchment within the meaning of Section 2(oo) since the fact of termination is only relevant, howsoever produced is irrelevant for the applicability of Section 25-F. Once the termination does not fall in any one of the excepted category enumerated in Section 2(oo), the termination of services even if it be according to automatic discharge from service under an agreement or by efflux of time or by the default of the workmen, it would be retrenchment attracting the compliance of Section 25-F of the Act". Their Lordships further held that "since termination of services amounting to retrenchment without compliance with the provision of Section 25F renders the termination void ab initio and inoperative, it cannot be said that in such a case, the employee would not be entitled to reinstatement and backwages. There is no question of granting reinstatement because there

is no cessation of service. A mere declaration follows that the employee continues to be in service with all consequential benefits. In case of reinstatement the question of weighing the facts and circumstances of the case arises for grant of compensation or back wages. The said question does not cover a case of ineffective and inoperative order or retrenchment as there is neither termination nor cessation of service but it needs a bare declaration". The plea of the management is that as the concerned workman was aged less than 18 years on the date of his appointment as casual typist the said appointment was itself illegal and as such the concerned workman was not entitled to any legal relief. From the evidence in the case it is clear that the appointment of the concerned workman was as casual typist for which no age limit was given. Moreover, the Senior Regional Manager is the competent authority to relax age in accordance with the Staff Regulation and the appointment of the concerned workman being made as casual typist by the Senior Regional Manager it will be deemed that the Senior-Regional Manager had considered and allowed the appointment of the concerned workman by relaxing the age limit. Thus the net result is that the case of the concerned workman was a retrenchment without complying with the provision of retrenchment and as such it is clear that the order of termination of the services of the concerned workman was illegal and void and it will be deemed that he continued in the services of the FCI and that his services were never terminated in view of the position of law as enunciated above.

In the result, I hold that the action of the management of FCI in retrenching the concerned workman Shri Manoj Kumar with effect from 24-7-84 without observing the conditions laid down under Section 25-F of the I. D. Act is not legal and justified and the workman will be deemed to continue in the services of the management with wages and consequential benefits from 24-4-84. The management is directed to allow the concerned workman to join his duties and to pay all his dues within 2 months from the date of publication of the Award.

This is my Award.

I. N. SINHA, Presiding Officer

[No. IL-42018/16/88-D.IV (B)]

R. K. GUPTA, Desk Officer

नई दिल्ली, 27 जून, 1989

का.प्रा 1698.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में सेवा में का निमित्त, के प्रबंधन के सम्बन्ध में उक्त कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधि-करण, बम्बई सं. 2 के पंच को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-7-89 को प्राप्त हुआ था।

New Delhi, the 27th June, 1989

S.O. 1698.—In pursuance of Section 17 of the Industrial Disputes Act 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bombay No. 2 as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Sesa Goa Ltd., Panjim and their workmen, which was received by the Central Government on the 20-6-89.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, BOMBAY

Reference No. CGIT-2/29 of 1988

Employers in relation to the management of M/s. Sesa Goa Ltd., Panjim;

AND

Their Workmen.

APPEARANCES :

For the Employer : Shri P. K. Lele, Industrial Relations Consultant.

For the workman : Shri Joao T. Colaco (Workman in person).

INDUSTRY : Iron Ore Mines

STATE : Coal

Bombay, dated 12th June, 1989

AWARD

The Central Government by their Order No. L-29012/34/88-D. III(B) dated 9-9-1988 have referred the following industrial dispute for adjudication to this Tribunal under Section 10(1)(d) of the Industrial Disputes Act, 1947 :—

"Whether the action of the management of M/s. Sesa Goa Ltd., Panjim, in dismissing Shri Joao T. Colaco, Helper-mechanic from service w.e.f. 23-10-87 is legal and justified ? If not, what relief is the said workman entitled to ?"

2. The case of the workman Shri Joao T. Colaco as disclosed from the statement of claim (Ex. 2) filed by him, in short, is thus :—

He was employed in the service of M/s. Sesa Goa Ltd., as a Helper Mechanic in July, 1979. In July 1987 a chargesheet was issued against him by the company on the ground of alleged misconduct. The misconduct alleged against him was thus :—

On 12-7-1987 (Sunday) he entered unauthorisedly in the room of Mrs. Rosa L. D. Gama, Co-worker, adjacent to the workman's room, who was then sleeping on her bed. He had an intention to commit rape. He caught hold of her but she resisted and given out shouts. On hearing the noise, one Shri Amar Godinho, another co-worker knocked at the door and entered into the room. For this alleged misconduct, a chargesheet was issued to him and a departmental enquiry was also held against him. However, it was not held properly and no rules of natural justice were followed therein. He was not given proper opportunity to defend himself. He was found guilty of the said misconduct by the Enquiry Officer. Thereafter he came to be discharged from service of the said company. No complaint was lodged by the same lady for any incident with the police. The punishment awarded to him, is disproportionate and unwarranted. The workman therefore prayed that the said action of the company be held illegal, and that the company be directed to reinstate him in service with full back wages and continuity of service.

3. The said Company by its written statement (Ex. 3) opposed the said claim of the workman, and in substance contended thus :—

On 12-7-1987 it was reported to the company that the said workman had unauthorisedly entered the residential room of Mrs. Rosa da Gama, who was staying in the premises of the company. It was further reported that he caught hold of her with the intention of committing rape. She suffered minor injuries on her person. She gave out shouts, and one Shri Godinho entered the room, and the workman left the room. Thereafter the necessary domestic enquiry was held against him. The rules of natural justice were followed therein. The workman was defended by the representative in that enquiry. He was found guilty by the Enquiry Officer, and the Disciplinary authority concurred with the findings of the Enquiry Officer. After giving him an opportunity to file his say regarding

the proposed punishment, the company discharged him (and not dismissed him) from service. Therefore, the company prayed that its action, as above, be held as just and proper.

4. On these pleadings the necessary Issues have been framed at Ex. 6. Thereafter the said workman filed his affidavit (Ex. 7) in support of his statement. According to him the true facts of the case are thus :—

On the noon of 11-7-1987 (Saturday) while he was proceeding towards his place of work, the lady Mrs. Rosa D'Gama who was at that time near the Company's Guest House, told him to meet her on the next day. Accordingly he went to her room in the morning of the next day. He then asked her as to why she had called him to her room, and she surprisingly denied that she had called him to her room, and she uttered bad words, and called out one Shri Amar Godinho for help. Accordingly he came there. Shri Amar gave him four slaps on his face and chest. The workman told him the true facts of the case. He then left that room, and approached the Union leader, and informed him about the true facts of the case. He had not committed any misconduct and he was falsely discharged from service. While the case was at the stage of cross-examination of the workman, both the parties i.e. the workman and the General Manager (Personnel) of the said company came to an amicable settlement dated 25-5-1989 (Ex. 8). This settlement is signed by the workman as well as by the General Manager (Personnel) of that company and also by two witnesses. The terms of the settlement are thus :—

- "1. It is mutually agreed between the parties that the termination of services of Mr. Golaco with effect from 17-11-1987 will be treated as if the services were retrenched with effect from the same date instead of the services being discharged.
2. The employer will pay Mr. Colaco retrenchment compensation at the rate of 15 days wages per year of completed service for 8 years service rendered by him. The actual amount in this respect will come to Rs. 4,989.60.
3. In addition to the above payment, employer will pay Shri Colaco a sum of Rs. 15,010.40 as ex-gratia payment.
4. The above payments will be in addition to his other legal dues such as Gratuity as per Payment of Gratuity Act, Provident Fund, Subsistence Allowance for the month of November 1987, Bonus for the year 1987-88, one month's wages in lieu of notice on the termination of service.
5. The amounts payable at terms (2) and (3) above are paid and received by Shri Colaco today by means of Amount Payee Demand Draft No. 107847 drawn on Canara Bank, payable at Ponda.
6. By virtue of this settlement, Mr. Colaco agrees that he has no dispute of whatsoever nature with the employer in respect of his employment with them including termination of service.
7. Both parties agree to file the signed copy of the settlement with the Central Government Industrial Tribunal No. 2 at Bombay, for requesting the Tribunal to pass a consent award in terms of the settlement."

5. The Company has also produced Xerox copy of Receipt dated 25-5-1989 (Ex. 9) showing that the workman had received Rs. 20,000 by demand draft. I find that the settlement is quite in the interests of both the parties, and as

such I accept it. In the result, the Award must and is drawn in terms of the settlement.

The parties to bear their costs of this Reference.

P. D. APSHANKAR, Presiding Officer

[No. L-29012/34/88-D.III(B)]

नई दिल्ली, 28 जून, 1989

का.सं. 1699.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मै. कटियावर और मालाबार कोस्ट्स लाइटरेज कंपनी, बम्बई के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बम्बई स. II के पंचाट को प्रकटित करती है, जो केन्द्रीय सरकार को 20-6-89 को प्राप्त हुआ था।

New Delhi, the 28th June, 1989

S.O. 1699.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bombay, No. II as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. Kathiawar and Malabar Coasts Lighterage Company, Bombay and their workmen, which was received by the Central Government on the 20-6-89.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, BOMBAY

Reference No. CGI-2/41 of 1986

PARTIES :

Employers in relation to the management of M/s. Kathiawar and Malabar Coasts Lighterage Company, Bombay.

AND

Their workman.

APPEARANCES :

For the Employers : Shri D. N. Waykul, Advocate.

For the Workman : Shri G. D. Samant, Advocate.

INDUSTRY : Ports and Docks. STATE : Maharashtra.

Bombay, dated the 7th June, 1989

AWARD

The Central Government by their Order No. L-31012/5/85-D.IV(A) dated 20-8-1986 have referred the following industrial dispute to this Tribunal for adjudication under section 10(1)(d) of the Industrial Disputes Act :—

“Whether the action of the management of M/s. Kathiawar and Malabar Coasts Lighterage Company, Bombay in not allowing Shri Hari Krishna Koyande, Tindal, working on barge No. 4770 to resume his duties from 16-7-1981 after his acquittal by the Metropolitan Magistrate Court, Ballard Estate, Bombay is justified? If not, to what relief the said workman is entitled?”

2. The case of the workman Shri Hari Krishna Koyande as disclosed from his statement of claim (Ex. 2/W), in short, is thus :—

He was appointed in the services of M/s. Kathiawar and Malabar Coast Lighterage Company in 1969 as a Tandel on Barge No. 4770. His services were

terminated by the said company with effect from 20-1-1979 without assigning any reason or without holding any enquiry against him. The said workman and eight other persons were involved in a Police case bearing No. 131/P/1980 while he was in the employment of the said company. They were acquitted in that case by the Court of the Additional Chief Metropolitan Magistrate, Ballard Pier, Bombay on 16-7-1981. Thereafter the said workman had approached the owner of the company for reinstatement in service but the management refused to re-employ him. He also sent letters to the management for his re-appointment, but he did not receive any reply from them. Thereafter, he raised an industrial dispute about the said matter before the Assistant Labour Commissioner (C), Bombay but it ended in failure. The penalty of wrongful termination imposed upon him by the management is too excessive, and without any fault or mistake on the part of the workmen. After the services were terminated by the said company, he tried to secure another job, but he could not get any other service. The said company is still functioning, and workers junior to him are working there. The workman, therefore, prayed that the action of the management of the said company in terminating the service be held illegal and unjust and the company be directed to reinstate him in service with full back wages and continuity of service.

3. The Managing Partner of the Kathiawar and Malabar Coast Lighterage Company by this written statement (Ex. 3/M) resisted the claim of the workman. He admitted that the said workman was employed on Barge No. 4770 in their company and was working as a Tandel. The said company then contended thus :—

The said workman absented himself from duty and never reported for duty to the company. He remained absent without informing the company about his absence. Certain property of the said company was stolen. The company thereafter learnt that a criminal case was filed against the said workman by the Police. As the workman himself remained absent from duty for a long period without informing his duty for a long period without informing his employer about his whereabouts, his services automatically came to be terminated. M/s. Kathiawar and Malabar Coast Lighterage Company has closed down its operation in 1980 due to growing slackness of business. After the workman was acquitted of the theft case filed against him, he never approached the company for service therein. So the question of reinstatement does not arise. The said company, therefore, prayed for the dismissal of the workman's prayers.

4. The Issues framed at Ex. 4 are :—

- (1) Whether the termination of the services of the workman Shri Hari Krishna Koyande by M/s. Kathiawar & Malabar Coasts Lighterage Company without holding any enquiry against him, is valid and proper?
- (2) Whether the said workman himself remained absent continuously for a very long period without informing the said company, and as such, his services automatically came to be terminated under the provisions of Industrial Disputes Act?
- (3) Whether the said company has closed its business since the year 1980?
- (4) Whether the action of the management of M/s. Kathiawar & Malabar Coast Lighterage Company, Bombay, in not allowing Shri Hari Krishna Koyande, Tindal working on barge No. 4770 to resume his duties from 16-7-1981 after his acquittal by the

Metropolitan Magistrate Court, Ballard Estate, Bombay is justified?

(5) If not, to what relief the said workman is entitled?

(6) What Award?

5. My findings on the above said issues are —

(1) No

(2) No

(3) Yes

(4) The issue does not survive.

(5) As per the Award below.

(6) As per below

REASONS

ISSUES Nos. 1, 2 & 3

6. The workman Shri Hari Krishna Koyande filed his affidavit (Ex. S/W) in support of his case. He was cross-examined on behalf of the management of the said company. Shri Hariram Nirkallu Rambari, office Assistant of the said company, filed his affidavit (Ex. 7/M) in support of the contentions of the said company. He was also cross-examined on behalf of the workman. According to him (workman), he was employed in the said company as a Tandel on Barge No. 4770 in the year 1969, and that he was transferred from Karwar to Bombay in 1973, and since then he was in service at Bombay. He further stated in his evidence that his services were terminated by the company from 20-1-1979 without holding any enquiry against him and without assigning any reason for the termination of his service. It is an admitted fact that the said workman along with eight other persons, was arrested in a theft case by the Police and prosecuted for the offence, under Sections 407 and 411 read with Sec. 114 IPC and he was acquitted in that case on 16-7-1981. According to the said workman, the said company suspended him from service after his arrest, and did not allow him to resume his duty. He further stated in the evidence that after he was acquitted in the said criminal case, he approached the company for service but the partners of the company did not allow him to resume his duty.

7. According to the witness of the management, Shri Hariram Nirkallu Rambari (Ex. 7/M), the company had never terminated the services of the said workman, but that he himself had stopped reporting for duties from 20-1-1979, and did not communicate any reason for his absence. He further stated in the affidavit that as the company was not knowing the whereabouts of the workman, no notice was sent to him. Thus, according to him, the workman himself had abandoned the service on 20-1-1979 and that the company had not in any way terminated his service.

8. In this connection, my attention was drawn on behalf of the workman to the decision of the Supreme Court in the case between G. T. Lad and others and Chemicals and Fibres of India reported in 1979(1) LLJ page 257, and also to the decision of the Bombay High Court in the case between Gaurishankar Vishwakarma and Eagle Spring Industries Pvt. Ltd. & ors. reported in CLR-I-1988 page 38. It was held in the first case that abandonment or relinquishment of service is always a question of facts. To constitute abandonment, there must be total or complete giving up of duties so as to indicate an intention not to resume the same. In the other case of the High Court of Bombay, it was held that "it is now well-settled that even in the case of the abandonment of service, the employer has to give a notice to the workman calling upon him to resume his duty and also to hold an enquiry before terminating his service on that ground". So, in the present case we have to see whether the workman himself abandoned the service or whether the company has terminated his service. It is an admitted fact that the workman did not actually work from 20-1-1979. It is seen from the evidence on record that the workman was arrested in the said theft case on 23-1-1979 and was in the custody for 20 days. As such he 1860 GI/89-9

could not attend to his duties for three weeks from the date of his arrest. It is also likely that he might not have reported for his duty for a few days after he was released on bail. According to the workman, after he was acquitted of the theft case against him on 16-7-1981, the company did not allow him to resume his duties. According to the company, the said workman did not at all approach the company for resuming duties after 20-1-1979. It is seen from the evidence of the workman that he was in the service of that company since 1969 i.e. 10 years before his alleged termination of his service in 1979. The workman stated in his affidavit that after he was acquitted by the criminal court, he had sent an application on 25-9-1981 to Shri Ajit Seth and Abaseth requesting them to take him back in service. Now, in case the workman had no intention to resume his duty after his acquittal, he would not have sent any application to the said persons, and would not have raised any industrial dispute with the Assistant Labour Commissioner (C), Bombay. Further, as he was already in service for ten years before his alleged termination of service, and he was demanding reinstatement in service, the contention of the company that the workman himself abandoned his service, cannot be accepted. I find that the workman had not abandoned his service, and he had not attended to the work in the company with the intention of not resuming for his duties at any time therein. Therefore, I find that the said company had terminated the services of the workman. It is an admitted fact that after the workman stopped attending to his duties from 20-1-1979, no notice was sent by the company asking him to resume his duty, nor any show cause notice was issued by the company to the workman asking him to show cause why, for the said reason, his services should not be terminated. No disciplinary action was taken by the company against the workman. As held by the High Court of Bombay in the said case that it is now well-settled that even in case of abandonment of services, the employer has to give notice calling upon the workman to resume duty and also should hold an enquiry before terminating the service on that ground. This procedure was not followed by the company in the present case. It is true that no appointment letter in writing was issued to the workman when he was appointed in the company. However, in view of the fact that he was actually in service of the said company for about ten years before 1979, a notice in writing from the company asking him to resume his duty, was expected and was necessary. According to the company, as they were not knowing about the whereabouts and particulars of the workman, they did not send him any notice after he remained absent. Now, this contention of the company that the company was unaware of the address or whereabouts of the workman who was in service for ten years therefore, cannot at all be accepted. The witness for the management himself admitted in his affidavit that after the workman was acquitted, he had approached him as well the partner Shri Abdul Aziz Abdul Latif for employment. This clearly indicates that the said workman had no intention at all to abandon his service. I therefore find that the workman himself had not abandoned the service; but the company had terminated his service. As noted above, his services were terminated orally without assigning any reason or without holding any enquiry against him. I find that the said action on the part of the company is not valid and proper. Issues Nos. 1 and 2 are therefore found in the negative.

9. As noted above, the workman was acquitted by the criminal Court on 16-7-1981. A true copy of the Judgement in that respect is at Ex. 15. According to the said Company, the company has closed down its business and dissolved the partnership firm in June 1980. Ex. 13 is a copy of the Deed of Dissolution dated 20-6-1980 of the said company. Ex. 11 is a copy of the letter sent of the said company to the Income-tax Officer on 1-7-1980 that the said company was dissolved with effect from 16-6-1980. Ex. 12 is a copy of the order passed by the Professional Tax Officer, Bombay on 18-2-1988 that the registration certificate issued to the said company is cancelled from 16-6-1980. As such the company in which the said workman was working for ten years before his arrest, had ceased to function and the firm was dissolved in June 1980. Issue No. 3 is found in the affirmative.

ISSUES NOS. 4 & 5

10. According to the workman, after he was acquitted of the criminal case against him on 16-7-1981, he had approached the management and that the company did not allow him to resume his duties from 16-7-1981. As noted above, the said company had already closed down its business in June 1980. Therefore, even though the workman had approached the company for work, he could not be allowed to resume his duties as the said company was not in existence. As such the Issue No. 4, whether the action of the management of M/s. Kathiawar & Malabar Coasts Lighterage Company, Bombay, in not allowing Shri Hari Krishna Koyande, Tindal, working on barge No. 4770 to resume his duties from 16-7-1981 after his acquittal by the Metropolitan Magistrate Court, Ballard Estate, Bombay is justified, does not survive. Issue No. 4 is round accordingly.

11. As noted above, the said company closed down its business from June 1980. As held above, the workman himself had not abandoned his service, but the company had wrongfully terminated his service. Therefore, in case the said company was in existence in June 1980 after the workman was acquitted from the said criminal case, the workman could have been reinstated in service. However, as the company ceased to function, the workman cannot be directed to be reinstated in service. However, even then the workman can be awarded the necessary compensation of the period 20-1-1979 till the date of dissolution of the said partnership firm i.e. of a period of 17 months. It is seen from the evidence on record that the workman was getting wages of Rs. 500 per month before his arrest in 1979. Therefore, in my opinion, in case the company is directed to pay the compensation of Rs. 8,500 to the workman, it will be the proper relief to him. This can be done under Section 10(4) of the Industrial Disputes Act. Issue No. 5 is found accordingly.

ISSUE NO. 6

12. The following Award is, therefore, passed.

AWARD

M/s. Kathiawar & Malabar Coasts Lighterage Company, Bombay or the partners of the dissolved partnership firm, are hereby directed to pay compensation of Rs. 8,500 (eight thousand five hundred only) to the workman Shri Hari Krishna Koyande and also to pay other dues, if any to him within two months from the publication of this Award in the Government of India Gazette.

The parties to bear their own costs of this Reference.

P. D. APSHANKAR, Presiding Officer
[No. L-3101215/85-D. IV(A)'D III(B)]

नई दिल्ली, 30 जून, 1989

का.प्र. 1700.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत गोल्ड माइन्स लिमिटेड, ओर्गांम, के.जी.एफ. के प्रबंधकों से सम्बद्ध नियोजकों और उनके उर्ज्वकारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक प्रतिकरण, बंगलूर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-6-89 को प्राप्त हुआ था।

New Delhi, the 23rd June, 1989

S.O. 1700.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bharat Gold Mines Limited, Oorgaum, K.G.F. and their workmen, which was received by the Central Government on the 26-6-89.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT BANGALORE

Dated, 20th Day of June, 1989

Central Reference No. 14/89

I PARTY

Shri M. Kannan, No. 273,
Honcoks Block,
Marikuppam P.O.
K.G.F.-563120.

Vs.

II PARTY

The Managing Director,
Bharat Gold Mines Limited,
Suvarabhavan, Oorgaum,
K.G.F. Bangalore-563120.

APPEARANCES:

For the I Party: Shri Maruthvanan.

For the II Party: Shri K. J. Shetty, Advocate.

AWARD

By exercising its powers under section 10(1)(d) of the Industrial Disputes Act, the Government of India, Ministry of Labour has made the present reference on the following point of dispute by its order No. L-43012/10/88-D.III(2) dated 21-1-1989.

POINT OF REFERENCE

"Whether the management of Bharat Gold Mines Ltd., is justified in dismissing Shri Kannan, Clerk, employed in the material department, from service w.e.f. 30-6-86. If not, what relief the employees is entitled to?"

2. After the I party workman appeared before this Court, he did not filed any claim statement. However, under cover Ex. M-13 dated 21-5-89 one representation was received from him. As per Ex. M-12, received from him in the cover Ex. M-13, his claim is as follows:

He has put in 33 years of honest service with a clean record, before he was dismissed in 1986 for absentism. The alleged absentism was of 6-1/2 days. It was not continuously remaining absent. It was absent on health grounds. He is a widower with 6 children. He has incurred debts. He prays for mercy and request for reinstatement.

3. The management has filed its statement and it is contended as follows:

He was charge sheeted for misconduct under standing order No. 15(b)(30) for habitual absence. Miss Shalini Rathnam held an enquiry against him. He was given all the reasonable opportunities. The Enquiry Officer submitted a report that he was guilty. Then a second show cause notice was issued to him. His explanation was not found to be satisfactory. He was dismissed from service on 30-8-86. On earlier occasions he has been suspended and awarded punishment of reduction in increment on more than once occasion, for continued absence. There is no justification for reinstatement. The reference may be rejected.

4. The II party was called upon to adduce evidence and MW-1 has been examined and Exs. M-1 to M-14 have been got marked.

5. On his part, the workmen WW-1 has been examined.

6. The parties have been heard.

7. My finding on the point is that the punishment of dismissal imposed by the management is not proportionate to the alleged act of misconduct. The punishment of dismissal is substituted, by a punishment as shown below.

REASONS

8. MW-1 Shalini Rathnam has sworn that the management had issued a charge sheet to him as per Ex. M-1 and since his explanation Ex. M-2 was not satisfactory, a notice of enquiry Ex. M-3 was issued to him. She has further stated that then she conducted the enquiry as per Ex. M-4, and the workman pleaded guilty. Ex. M-5 is the report given by her. There upon, the management has issued a second show cause notice as per Ex. M-6. His explanation Ex. M-6 is at Ex. M-7. The record shows that the management was not convinced and hence he was dismissed as per Ex. M-8. Ex. M-9 is the appeal filed by him. In the meanwhile he had given a representation as per Ex. M-10, but it is to be seen from Ex. M-11 that his appeal was rejected. All these facts are admitted by WW-1 Kannan. He swears that he had sent the representations as per Exs. M-9 and M-10. But that his appeal has been rejected. He admits the contents of his representation Ex. M-12 sent to this Tribunal under cover Ex. M-13. He has stated that he does not claim any backwages and that he prays for reinstatement.

9. The learned counsel for the II party submitted that on some prior occasions he had unauthorisedly remained absent and he had been punished with suspension of stoppage of increments, but he has insisted upon remaining absent unauthorisedly. He submitted that taking into account the confidential report Ex. M-14, the enquiry officer has held him guilty and that the management was justified in dismissing him from service.

10. The learned representative for the workman submitted that the workman is a widower having 6 children that the charge sheet against him was that he had remained absent for 6-1/2 days, and taking into account that he has put in 33 years of service, he may be reinstated.

11. The charge sheet Ex. M-1 reads that from January 1986 to 28th May, 1986, he had remained absent. For about 21 days. The chargesheet does not contain the allegation that, on prior occasions he had similarly remained absent unauthorisedly as described in Ex. M-14, and therefore the management considers it that he is guilty of habitual absentism. According to the chargesheet Ex. M-1 habitually absentism relates only to 13-1/2 days of 1986 till the month of May, 1986. In May 1986 he had remained absent for 7-1/2 days. Even if it is supposed that he has committed the misconduct of habitual absentism by remaining absent for 21 days within a period of about 5 months, I am of the view that the punishment of dismissal is not proportionate to the act of misconduct. There is no dispute on the point that he has put in about 33 years of service. The only allegation against him in Ex. M-14 is about remaining absent unauthorisedly. The workman has pleaded that he is having blood pressure and that on account of illness he had remained absent. Under the circumstances, I am of the view that it is a fit case to invoke the jurisdiction vested in this Tribunal under section 11A of the I.D. Act and grant necessary relief.

12. I am of the view that the loss of emoluments from 31-8-1986 till the date of reinstatement is a sufficient punishment, he has under gone for the alleged act of misconduct as shown in Ex. M-1. The management shall record the same as the punishment for the misconduct shown in Ex. M-1 and shall also administer a warning to him that if he again indulges in any such act of misconduct, the matter would be taken seriously and that the disciplinary action would be initiated against him. With so much of recording the management shall reinstate him within 15 days from the date on which this award comes into effect, but without any back wages or consequential benefits.

13. In the result, an award is passed to the effect that the management of Bharat Gold Mines Limited was justified in holding that Shri Kannan, Clerk, was guilty of the misconduct shown in Ex. M-1, but it was not justified in dismissing him from service. The punishment of dismissal is substituted by the punishment of loss of total emoluments for the period from 31-8-86 till the date of reinstatement. The management shall further administer a warning to him in writing that if he again insists in any such misconduct serious note. Would be taken and disciplinary action would

be initiated against him. He shall be reinstated within 15 days from the date on which this award comes into effect. He shall not be entitled to any back wages or consequential benefits.

(Dictated to the Stenographer, taken down by her, got typed and corrected by me.)

B. N. LALGE, Presiding Officer

[No. L-43012/10/88-D.III(B)]

का.आ. 1701.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुमरण में केन्द्रीय सरकार मद्रास एल्युमिनियम कंपनी लिमिटेड, मेट्टूर डैम, जिला सलम के प्रबंधन में सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, मद्रास के पंचपद को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-6-89 को प्राप्त हुआ था।

S.O. 1701.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Madras as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Madras Aluminium Company Limited, Mettur Dam, Salem District and their workmen, which was received by the Central Government on the 22-6-89.

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL,
TAMILNADU, MADRAS

Friday, the 31st day of March, 1989

Industrial Dispute No. 12 of 1984

(In the matter of the dispute for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 between the workmen and the Management of Madras Aluminium Company Limited, Mettur Dam, Salem District).

BETWEEN

The workman represented by

1. The Secretary Hotel and General Workers Union, Yercaud Branch, P.O. Yercaud-636601, District Salem, Tamil Nadu.
2. The Secretary, Aluminium Thozhilalar Sangam, P.O. Mettur Dam-636402, Salem, Tamil Nadu.

AND

The Managing Director, Madras Aluminium Company Limited, P.O. Mettur Dam-636402, Salem District, Tamil Nadu.

REFERENCE :

Order No. L-43011/11/82-D.III(B)|D.II(B), dt. 1-2-1984 of the Ministry of Labour and Rehabilitation, Department of Labour, Government of India, New Delhi.

This dispute coming on for final hearing on Tuesday, the 29th day of November, 1988 upon perusing the reference, claim and counter statements and all other material papers on record and upon hearing the arguments of Thiru Prakash for Tvl. Row & Reddy and R. Rajaram, Advocates appearing for Union No. 2 and of Tvl. S. Ramasubramaniam and Sanjai Mohan for Tvl. S. Ramasubramanian and Associates, Advocates for the Management and the Union No. 1 being absent and this dispute having stood over till day for consideration, this Tribunal made the following :

AWARD

This dispute between the workmen and the Management of Shevaroy Bauxite Mines, Yercaud, Tamil Nadu arises out of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947 by the Government of India in its Order No. Nil, dated 1-2-1964 of the Ministry of Labour and Rehabilitation for adjudication of the following issue :

“Whether the retrenchment of 94 workmen of Shevaroy Bauxite Mines, Yercaud, Tamil Nadu as particularised in the Annexure w.e.f. 13-9-1982 by the Management of Madras Aluminium Company Limited, Methur Dam is legal and justified ? If not, to what relief are the workmen entitled ?

2. In the claim Petition averments the Government of India has referred to this Tribunal regarding the non-employment of 94 workmen working in the Shevaroy Bauxite Mines, Yercaud Tamil Nadu for adjudication. Those 94 workmen mentioned in the annexure to the reference had been working in the respondent—management company from 1965 onwards in various capacities. The Shevaroy Bauxite Mines, Yercaud, is one of the established mines in the State of Tamil Nadu. The respondent company has also got a mine in Kodaikanal called Kolli Mines. This company using this bauxite ore from the Yercaud mines for preparing Aluminium in its factory for a number of years. Suddenly the respondent company started buying bauxite ore from Kottagiri and Karnataka instead of using the bauxite ore from the Yercaud Mines. As a result there was accumulation of stock. This accumulation was deliberately created by the management in order to retrench the workmen. On 13-9-82 when the 94 workmen went to work, they were not given work by the Management saying that they had been retrenched from service. No notice for retrenchment nor wages in lieu of retrenchment were given to the 94 workmen. No retrenchment compensation as per Section 25(F) was paid to the workers. Then a letter written by the workmen addressed to the Managing Director of the Company to take back all the workmen, who were illegally retrenched. Since it had no desired effect, the matter was raised before the Assistant Labour Commissioner (Central) and finally it came to be referred to this Tribunal. The retrenchment is mala fide and it amounts to an act of victimisation and unfair labour acts because the alleged accumulation of stock is nothing but the result of the deliberate action of the Management. The Management continues to use bauxite ore from one Yercaud Mines, then the accumulation of stock would not have been there. The Management has not followed the rule of last come first go when retrenching the workers and hence it is in violation of section 25G of the Industrial Disputes Act. The retrenchment notice alleged to have been displayed in the notice board is no notice at all under section 25-F of the Industrial Disputes Act. The Management calculated compensation from 1969 onwards whereas the workers joined in the service in 1965. The compensation was not given as per section 25-F of the Industrial Disputes Act. Hence the retrenchment is illegal. The workers may be reinstated with continuity of service and back wages.

3. The respondent-company in its counter states that they entered into a 3 years Barter Agreement with the Government of Kerala in 1980 enabling assured supply of power as well as regular offtake of the material produced and that gave a big boost to the respondent's production in 1980. In February, 1980 there was a serious clash between the workmen at Kodaikanal mines and forest staff and therefore the respondent was compelled to effect immediate shift of the entire lot of workmen from there in the interests of their own safety. Hence the operation in the Kodaikanal had been closed and the miners engaged there became surplus. The Respondent-Company took a sympathetic view and accommodated surplus workmen at Yercaud mines thinking there will be improvement in the situation and also in anticipation of the increased production on account of three year Barter Agreement executed in 1980. But the things took a different turn that the agreement was terminated due to large scale of imports of aluminium by M.M.T.C., power cut of 30 per cent imposed

in Tamil Nadu in November, 1981, glut in the aluminium market as well as the low pricing policy of the Central Government, etc. The production as well as the profit in 1981 were considerably reduced on the operation in the Yercaud mines had to be curtailed and hence steps were taken to retrench the workmen in the Yercaud mines. The stock of Bauxite ore was 85,000 tonnes at the time somehow the retrenchment was avoided with a low offtake and work started again. While so, due to increase of power operation from 17.5 paise per unit to 38.5 paise per unit with effect from 1-5-82 rose up, the chances of high level production was remote. The stock also increased to 1,62,000 tonnes as on 11-9-82 which was adequate to meet the requirements of the Respondent Factory for another 2-1/2 years. In the absence of space for such operations unless the existing stock was considerably reduced, the position of continuing the mining operation became remote. Therefore 94 workmen were retrenched. It is incorrect to state those workmen were employed from 1965 onwards, and they were on the rolls only from 1-1-78. It is incorrect to state that the company started buying Bauxite ore from the Kottagiri and Karnataka suddenly resulting in the accumulation of stock and that the stock was created deliberately by the Management in order to retrench the workmen. The company has been buying the bauxite ore from outside sources right from beginning and not suddenly by using of necessity by outside since the ore from outside has higher percentage of aluminium content. It has become necessary and therefore bauxite ore was purchased from outside also. The accumulation of stock was only due to continuous power cut as the plant resulting in very low offtake of bauxite ore from the mines. The Management could not effect the retrenchment in 1981 because of 12(3) settlement entered between the workmen and the Management for laying off the worker for 15 days in a month upto December, 1981. The stock accumulated could not be disposed as no working space for further mining. In these circumstances, the Respondent-Company had no other option except to retrench the 94 workmen. The workmen were paid one month wage in lieu of one month's notice alongwith retrenchment compensation of Section 25-F. Hence a question of retrenchment notice does not arise. The retrenchment of 94 workmen is neither illegal, mala fide and not against the provisions of Industrial Disputes Act. There is no question of victimisation or unfair labour practice. The respondent states that out of 94 workmen 81 had accepted payment and 13 retrenched workmen have not received the money sent by money-order, which was returned to the Management. The company followed the rule of last come first go, prior to retrenchment. The Management since posted the order of retrenchment on the Notice Board, no notice of retrenchment is necessary. Hence the application is liable to be dismissed.

4. The point for determination is (1) whether the retrenchment of 94 workmen by the Respondent-Company is legal and justified (ii) if it is not to what relief are the workmen entitled to ?

5. W-1 to W-21 and M-1 to M-27 were marked. The petitioner union examined W.W.1 and W.W.2. The respondent management examined M.W.1 to M.W.3.

6. The petitioner-union examined W.W. and W.W.2. W.W.1 as a workman and the secretary of petitioner's union speaks the respondent management one Shevaroy Bauxite had mines at Yercaud, Kodaikanal and Salem and manufacture aluminium. They retrenched 94 workers, who were working in those 3 bauxite mines in the Respondent management. In the year 1981, 58 workmen were retrenched of which fact they complained to Managing Director of the respondent-company and Government Authorities under W-1 to W-7. His version is that while retrenching the 94 workers, no seniority list was published and after retrenching those workers, fresh workers were appointed and mining is going on. These 94 workers though they were formally working on a contract basis in 1978, they were absorbed by the respondent-company directly. In the cross-examination he would suggest that there are bauxite stock for 2-1/2 years and therefore retrenchment of 94 workers is justified. He would assert there was no power cut in the mines. Even there is power cut, the quantity of bauxite required for manufacture is not reduced. W.W.2 is also retrenched worker. His version is that he was taken directly by the respondent management

in 1978 and his duty was to load, unload bauxite and that in 1979 he was transferred to Kollimalai Mines. He would state, that before retrenchment no notice was given to him; no seniority list was published and subsequent to his retrenchment one Mookkiah, Franchis, were taken for employment. But in his cross-examination he would state that one said Mookkiah, Franchis were already in service when he joined the mines. His evidence is not of any help except for the fact that he is one of the retrenched worker. As against the evidence of these workers, the Management examined M.W.-1 to M.W.-3. M.W.-1 is the Manager (Personnel) of the respondent company since 1981. He would speak about the manufacturing of aluminium metal for the respondent company and that the raw material namely bauxite required for the manufacture of aluminium is mined and stocked at Shevoroy Bauxite mines and subsequently despatched from the mines to the plants as per requirements of Mettur Plant. He would also speak about the strength of workmen at Shevoroy Bauxite Mine was 179. Before retrenchment and after putting up the seniority list of the workers in the Notice Board, the Management retrenched the workmen. In fact the evidence is to the effect that the respondent-company followed the procedure for retrenchment as per the provisions of Industrial Disputes Act. He also speaks about M-4 and M-5, postal receipts for sending the money order to retrenched workmen M-6 is the notice put up at Shevoroy Bauxite Mines Notice Board. M-7 the copy of prescribed form and M-8 to M-14, the wage register from 1985 onwards. The purpose of filing the wages register is that they would reveal that they have not recruited any fresh hands after the retrenchment. M.W.-2 is the Engineer in Bauxite Processing Section of the Respondent-Company at Mettur Dam since 1965. He would speak in detail as to how from the Bauxite, Aluminium is manufactured. He would also add that he was acquainted with the stock and requirements of the company and would swear the stock position of the company as 1,61,170 tonnes in August 1982 and despatched the same for the month from the mines was about 4360 tonnes. He would also file M-22 statement regarding the power cut, the closure of the plant till 85 to 87. On account of power cut the consumption of bauxite was only to 4000 to 5000 per month. M.W.-3, a senior Accounts Officer of Finance and Accounts of the Respondent-Company would also swear that he is familiar with stock and requirements of bauxite. M-23 is a communication from Mines Office to the Accounts Department. According to this communication, the opening stock of bauxite was 1,66,000 tonnes and closing stock was 1,68,311 tonnes on 30-9-82. He would also file M-24 showing the opening and closing stock of bauxite on 1983. His further evidence is the present stock position is around 20,087 metric tonnes of bauxite as can be seen from M-25 statement. In fact his evidence is during 1982-83 the stocks held by the Company was far higher than the requirements. However, it is seen from the cross-examination of this witness, that he had personally verified the stock register but anyhow he would deny the suggestion that M-23 is not an authentic document. Similarly he would deny that M-24 has been prepared for the purpose of this case. Thus it can be seen from the case of the Management that due to power cut imposed on November 1981 glut in the aluminium market as well as the low pricing policy by the Central Government, the stock position of bauxite got accumulated and therefore the Respondent Company has considered to retrench the workmen. The Respondent-Management relied on M-23, M-26 showing the closing stock on various years. M-24 and M-25 are for subsequent period concerned and therefore they are not relevant. M-23 is a communication sent by the Mines Manager to the Aluminium plant furnishing the bauxite production and despatches from the month of September, 1982, which shows the opening stock of bauxite ore as on 1-9-82 is 1,66,504.960 M.T., and production during the month of September, 1982 is 5,898.500 M.T. and the total is 1,72,403.460 M.T. The despatch shows from the factory site is 4,092.420 M.T. and the closing stock of bauxite as on 30-9-1982 as per the document is 1,68,311.040 M.T. Of course, as suggested by M.W.3 that they were not authentic M.W.-3 though has not verified personally the stock registers, he files a communication received from his department, the mines office. It cannot be said since he has not verified the stock register, the communication itself cannot be locked into. Incidentally the respondent has filed M-27, the order dated 8-9-87 by the Board for Industrial and Financial Reconstruction, treating the respondent-company as a sick unit under section 3(i)(b) of the Industrial Companies (Special Provisions) Act, 1985. At this stage, the claimant-

petitioner had contended the reason given by the Respondent-Company under M-7 for the purpose of retrenchment is not correct M-7 is the Form-P, notice of retrenchment to be given to the employer under clause C of section 25 of Industrial Disputes Act. M-6 is the notice of decision containing the list of persons to be retrenched. The reason furnished under M-6 are that there was three year barter agreement by the Government of Kerala in 1980 assured supply of power, which gave them good production. But the clash between the workmen of Kodaikanal Mines and the Forest Staff, they were compelled to shift of the entire lot of workmen and finally the mining operation at Kodaikanal had been closed since the staff engaged for that purpose became surplus. The further reason is that there was abrupt termination of the barter agreement due to large scale imports of aluminium by MMIC and 30 per cent power cut imposed by the Government of Tamil Nadu and there was glut in the aluminium market. Besides these factors, there is also low pricing policy by the Central Government. M-7 also says, the stock of bauxite ore at Yercaud mines has considerably increased to about 1,62,000 tonnes as on date and this quality will be quite adequate to feed their factory for atleast 2-1/2 years. In this connection, the case of the claimant is that merely due to power cut alone would not have resulted in the situation of accumulation of stock as alleged and therefore the retrenchment is resorted. But according to the evidence and also as admitted by the Respondent in the country, the Respondent Management has to purchase the bauxite ore from outside state of Karnataka and other places. It is according to the respondent that the bauxite ore purchased from outside state given higher percentage of aluminium content for blending with the bauxite ore of the Yercaud mines with lower percentage by alumina content to produce the required quality metal. One of the witnesses examined on the side of the Management refers to this fact. Anyway, the argument of the learned counsel for the claimant is since the bauxite ore has been purchased from the outside state, the question of power cut will not apply and consequently that cannot be a reason for retrenchment. It is also urged if really the power cut has affected the production, there is no explanation forth-coming as to why there was no retrenchment in the factory. At this stage it is relevant to note that the reasons given by the Management under M-7, notice, has been substantiated and justified their action. In this connection, the reference to barter agreement entered with the Government of Kerala, clashes between the workmen of Kodaikanal mines and the Forest staff, glut of aluminium market and low pricing policy by the Central Government have not been spoken to by any other witnesses examined by the Management. In other words, the reason furnished under M-7 notice, have not been substantiated by any piece of evidence to justify their action of retrenchment. Of course to prove, that the power cut was imposed, the Respondent-Management filed M-22. M-22 shows the power cut to MALCO, 1987. This has been signed by the 'Manager-Electrical' of the Respondent-Company. But it has been filed through MW-2, Engineer, Processing Section. In this connection, even admitting M-22, it has not been shown by any other witnesses how as a result of power cut production came down. In other words, the Management witness except saying the power cut, the production has reduced and resulted in lesser consumption of bauxite and therefore stock accumulated. There is no connecting evidence for the reasons mentioned in M-7 Notice, has resulted in the situation of retrenching the workers. A mere reference to accumulation of stock, power cut is not sufficient. But the management has not chosen to lead evidence, as to how as a result of the reasons mentioned in M-7, the situation warranted retrenchment, when especially, it is admitted case that the Respondent-company was purchasing bauxite from outside states. Incidentally it was pointed out by the learned counsel for the petitioner that by the reason of purchase from outside, the stock was increased with a motive to retrench the workers. Apart from this fact, the claimant also contended that no seniority list was prepared by the Respondent-Management as contemplated under Rule 77 of the Industrial Disputes (Central) Rules, 1957. Of course MW-1 filed M-4, the seniority list. In the cross-examination he would answer that the seniority list was prepared by the personnel department with the help of the reference of mines, and was handed-over to the Mines Manager. However it was denied that M-4 was never prepared by the Mines Manager. Though M-4 was not prepared by him, he would say that he

had seen after it was prepared by his assistant some time in the first week of September. He would answer that he directed the assistant to prepare the seniority list of 94 retrenched workmen as per the date of joining in service and that was only criterion adopted. He could also admit that serial number 1 and 2 in M-4 as far as inter se seniority is concerned no norm was followed. Further serial number 16 to 28 belong to different categories. He would also admit one single seniority list had been prepared for all categories of workmen. Notwithstanding that he would add for the purpose of retrenchment, workmen figuring after serial number 179 under M-4 have been taken into consideration and he also adds that seniority list of retrenched workmen was not produced. Thus it is seen from his evidence, at one stage he would answer that seniority list of 94 workmen was prepared and the list was filed by MW-2 in the Court under M-4 single seniority list for all categories of workmen. Further it is seen no norm has been followed as far as inter se seniority is concerned. He would answer, for the purpose of retrenchment workmen figuring after 179 under M-4 have been taken into consideration. But on the other hand a look at M-4 reveals that he gave a seniority list of 179 persons as on 7-9-82. The workmen retrenched is found in the list containing 179 but curiously it is not known how MW-1 swears for the purpose of retrenchment workmen figuring after 179 in M-4 has been taken into consideration. Therefore, it only shows that there is another list beyond 179 consisting of persons to be retrenched as per seniority. His evidence on this aspect is contradictory and no reliance can be attached. M-4 only seniority list of 179 workmen has been put up on the Notice Board in the Yercaud Mines. MW-1 is only a Manager (Personnel) in the Respondent-Company since May 1981 and cannot be a competent person to speak to the fact that M-4 is the list put up on the Notice Board in the Mines at Yercaud since the list itself shows at the end of the list as Manager-Mining. But the Manager Mining is a competent person to speak to this fact and also about the publication of the same in the Notice Board. In this connection, Rule 77 says "The employer shall prepare a list of all workmen in the particular category from which retrenchment is contemplated arranged according to the seniority of their service in that category and cause a copy thereof to be pasted on a Notice Board in conspicuous place in the premises of the Industrial Establishment at least 7 days before the actual date of retrenchment."

7. A close scrutiny of Rule 77 reveals that the respondent has not followed the procedure therein. This can be evident from M-1, firstly that one list was prepared for all category and no norm was followed in respect of serial numbers 1 and 2 and that serial numbers 16 and 28 belong to different categories. Therefore, this rule has been violated by the Respondent-Company before making any retrenchment. In fact, it is not in the evidence before contemplating retrenchment, M-4 the list was published 7 days before the actual date of retrenchment. M-4 the list except stating seniority list as on 7-9-82 therein nothing to indicate as to when it was pasted on Notice Board and that too whether atleast 7 days before the actual date of retrenchment namely 13-9-82. MW-1 also except saying that he put up the list in the notice board seven days before the actual date as contemplated under the rules has not chosen to substantiate by other materials. At this stage, it cannot be ruled out as contended by the Petitioner claimant that the list can be prepared at any time. Admittedly no seniority list has been prepared for each category as contemplated under rules. Therefore, as rightly pointed out by claimant counsel that seniority list has not been duly prepared. Even assuming M-4 is the actual seniority list, it was not prepared as per rule 77. Consequently, it only leads to the conclusion that it has been prepared in breach of rule 77.

8. Regarding the allegation, it is true that the question of seniority list was not raised by the claimant earlier in the correspondence in W-5 to W-7. But on that ground alone, the respondent cannot resist raising such a plea since the statutory obligation should be complied with by every management. The claimant though contended the juniors have been absorbed after retrenchment, it has not been substantiated as can be seen from the admission by WW-1 in the cross-examination. The respondent filed M-8 to M-10, M-12 to M-14 and M-19 to M-21 to show that no

new persons have been taken after retrenchment. Therefore, the petitioners cannot contend that the Juniors to 94 workmen subsequently were appointed after retrenchment of the 94 workers. The other contention of the Petitioner-Union that no retrenchment compensation was given is also not substantiated in view of M-5 the money order receipts showing the sending of compensation to the workers. Thus on a careful analysis of the evidence on record and also for the reasons stated above it has to be found that the retrenchment of 94 workmen is not legal and justified. Then this point is found in favour of the Petitioner.

9. In the result, the workmen are entitled to reinstatement without backwages but with continuity of service and other benefits. An award is passed accordingly. No costs. Dated, this the 31st day of March, 1989.

K. NATARAJAN, Industrial Tribunal

[No. L-43011/11/82-D.III(B)]

Witnesses Examined :

For workmen :

WW-1—Thiru K. Nagarajan.

WW-2—Thiru P. Thangavelu.

For Management

MW-1—Thiru R. G. Krishnan.

MW-2—Thiru Y. Raghavan.

MW-3—Thiru P. S. Krishnamoorthy.

DOCUMENTS MARKED

For Workmen :

Ex. W-1/6-4-81—Letter from the Petitioner-Union to the management about the proposed retrenchment of 58 workmen in Yercaud Mine (copy)

Ex. W-2/7-4-81—Letter from the Petitioner-Union to the Secretary to Government, Ministry of Labour, New Delhi about the proposed retrenchment of 58 workmen in Yercaud Mine (copy)

Ex. W-3/21-4-81—Letter from the Petitioner-Union to the Secretary to the Government, P.W.D. Madras-9 about the proposed retrenchment of 58 workmen in Yercaud Mine (copy)

Ex. W-4/19-3-81—Special Sampling Report given by Mines Manager.

Ex. W-5/15-9-82—Letter from Union No. 1 to the Assistant Labour Commissioner (C) about the retrenchment of 94 workmen (copy)

Ex. W-6/14-9-82—Letter from the 94 retrenched workmen to the Management (copy)

Ex. W-7/29-10-82—Letter from the Petitioner-Union to Thiru R. Venkataraman, the then Defence Minister (copy)

Ex. W-8—Letter from the affected workmen to the Secretary of the Petitioner-Union about the engagement of new hands by the Management (copy).

Ex. W-9/22-1-85—Letter from the Petitioner-Union to the Assistant Labour Commissioner (C) New Delhi about the engagement of new hands by the Management (copy)

Ex. W-10 —Annual Report of Management for the year 1985.

Ex. W-11/4-6-84—Representation of retrenched workmen to the Management.

Ex. W-12/ —Wage-slip-cum Pay cover of Thiru T. Venugopal for May, 1986.

Ex. W-13/ —Wage-slip-cum Pay cover of Thiru D. Chinnasamy for April, 1986.

- Ex. W-14/ series —Wage-slip of workers working as contract labour at Yercaud Mines (35 Nos.)
- Ex. W-15/ series —Wage-slip of workers working at Shevaroy Bauxite Mines (4 Nos.)
- Ex. W-16/5-11-86—Plans for augmenting production of Alimina and Aluminium
- Ex. W-17/ —Representation of workers working at Kolli Hills addressed to Aluminium Thozhilalar Sangam, Mettur—Nos. 2 regarding wage increase.
- Ex. W-18/ —Conduct certificate of Thiru A. Sandiyagu.
- Ex. W-19/ —Conduct certificate of Thiru R. R. Ramasamy.
- Ex. W-20/ —Conduct certificate of Thiru N. Kandasamy.
- Ex. W-21 series—Wage-slip of workers working at Bauxite Mines, Kodaikkantal (15 Nos.)
- Ex. W-22/23-3-88—Letter from Row & Reddy, Advocate to M/s. King and Partridge, Advocate for production of list of workmen as on 1-1-78 at the time of absorption and the Register of contract Labour.
- For Management :
- Ex. M-1/21-10-82—Conciliation Failure Report (Xerox copy)
- Ex. M-2/4-11-82—Letter from the Management to the Regional Labour Commissioner (Central) Madras-6 (copy)
- Ex. M-3/23-11-82—Letter from the Management to the Regional Labour Commissioner (Central) Madras-6 (copy)
- Ex. W-4/7-9-82—Seniority List of workmen (xerox copy)
- Ex. M-5/11-9-82—Money Order receipts Nos. 3961 to 4114 (xerox copy).
- Ex. M-6/11-9-82—Notice of decision to retrench with list of persons retrenched (copy)
- Ex. M-7/21-10-82—Form 'P'—Statement of reasons (copy)
- Ex. M-8/ —Workmen Pay Bill for the Month of December, 1985.
- Ex. M-9/ —Workmen Pay Bill for the Month of January, 1986.
- Ex. M-10/ —Workmen Pay Bill for the Month of December, 1986.
- Ex. M-11/ —Workmen Pay Bill for the Month of January, 1987.
- Ex. M-12/ —Wage Register for the period June, 1984 to February, 1985.
- Ex. M-12(a)—Pay Bill of the workers for the month of December, 1984 (Page 78 of M-12)
- Ex. M-12(b)—Pay Bill of the workers for the month of January, 1985 (Page 88 of M-12)
- Ex. M-13 —Wage Register for the period January, 1982 to May, 1984.
- Ex. M-13(a)—Wages and Lay Off wages for the month of January, 1983 (Page 187 of M-13)
- Ex. M-13(b)—Wages and Lay off wages for the Mine workers for the month of December, 1983 (Page 316 of M-13)
- Ex. M-13(c)—Wages and Lay Off wages for the month of January, 1984 (Page 327 of M-13)
- Ex. M-14/ —Workers Pay Bills for the month of April, 1987

- Ex. M-15/ —Profit and Loss A/c and Balance Sheet for the year ended 31-12-82.
- Ex. M-16/ —Profit and Loss A/c and Balance Sheet for the year ended 31-12-83.
- Ex. M-17 —Profit and Loss A/c and Balance Sheet for the year ended 31-12-84.
- Ex. M-18/ —Profit and Loss A/c and Balance Sheet for the year ended 31-12-85.
- Ex. M-19/ —Lay-Off Particulars for the period November, 1982 to April 1983 (Register)
- Ex. M-20/ —Lay-Off particulars for the period May, 1983 to September, 1983 (Register)
- Ex. M-21/ —Lay-Off particulars for the period 1-10-1985 to 20-8-86 and from 8-1-87 to 30-7-87 (Register)
- Ex. M-22/ —Statement showing Power cut in the Management for the years 1972 to 1977, 1979 upto 1-1-87.
- Ex. M-23/13-10-82—Details of bauxite production and despatches for the month of September, 1982.
- Ex. M-24/16-9-86—Certificate of Senior Cost Accounts Officer showing opening and closing stock of Mined Bauxite for the accounting year 1983.
- Ex. M-25/29-12-87—Certificate of Bauxite Stock as on 1st December, 1987.
- Ex. M-26/ —Cost and Audit Report for the year 1982 (Register)
- Ex. M-27/ —Order dated 8-9-87 in case No. 19/87 before the Board for Industrial and Financial Reconstruction.

का.प्रा.1702.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भै.टी.के. पारीकुटी एण्ड कंपनी (प्रा.) लिमिटेड, कोचीम के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच, झगड़ों में निम्नलिखित औद्योगिक विवाद में श्रम न्यायालय इरनाकुलम के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-6-89 को प्राप्त हुआ था।

S.O. 1702.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Labour Court, Ernakulam as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. T.K. Pareekutty and Company Private Limited, Cochin and their workmen, which was received by the Central Government on the 26-6-1989.

ANNEXURE

IN THE LABOUR COURT, ERNAKULAM

Wednesday, the 31st day of May, 1989

Industrial Dispute No. 12/86 (C)

BETWEEN

The Chairman, M/s. T. K. Pareekutty and Company (P) Ltd., VII/581, Jew Town, Cochin-682007

AND

The General Secretary, Progressive Port & Dock Workers Union, D. No. 2/94, Calvathy, Cochin-682001.

REPRESENTATIONS:

M/s. U. K. Ramakrishnan, E.K. Madhavan & P. V. Lohithakshan, Advocates, Ernakulam—For Management.

M/s. K. S. Madhusoodanan, V. K. Unnikrishnan, A.X. Varghese & Thomas Chazhukkarán, Advocates, Cochin-1.—For Union.

AWARD

The Industrial dispute between the above parties was originally referred to the Industrial Tribunal, Madras for adjudication by the Government of India as per Order No. L-35012/5/85-D.IV(A) dated 23rd, December 1985. The issue covered by the reference is as follows :—

“Whether the dismissal of Shri K. M. Abdulkunju, worker, from the services of M/s. T.K. Parrekutty and Company (Private) Limited, Cochin w.e.f. 8-3-1985 is justified? If not, to what relief the workman concerned is entitled?”

Subsequently as per Order No. L-35012/5/85-D.IV(A) dated 22-1-1986 the Government of India transferred the said dispute to this Court and withdraw the proceedings in relation to the said dispute pending before the Industrial Tribunal, Madras.

2. The Union has filed a claim statement stating as follows :—

The workman, who is a member of this Union, was an employee in the Management Company. While he was an employee in the Company he was served with a memo alleging that on 4-9-1984 he behaved indecently with the cashier Shri E. J. John and that the workman had slapped him on the face with a bill book at the time of disbursing the bills to the workers for their wages. The workman was asked to submit his explanation within 48 hours of receipt of the memo. On 13-9-1984 the workman gave an explanation divulging the true facts happened and denying all the wild allegations against the workman. Dissatisfied with the explanation submitted by the workman the Management decided to conduct a domestic enquiry and one V.T. Joy was appointed as the enquiry officer. On 21-9-1984 a letter was issued to the workman by the enquiry officer Shri V.T. Joy informing him that the enquiry would be held on 24-9-1984. As the workman had not received any previous notice and as he was not prepared to face the enquiry he pleaded before the enquiry officer that he required time. The workman also informed him that he had not been served with any previous notice of enquiry. The workman also asked the enquiry officer to allow him to engage an Advocate to conduct his case in the enquiry. The enquiry officer submitted his report with the finding that the allegation raised against the workman was proved. Thereafter the Management Company issued a memo on 6-2-1985 stating that his misconducts were proved in the enquiry and in view of it he was asked to show cause within 7 days why he should not be dismissed from service. Even though he submitted

his explanation, he was dismissed from service by saying that his explanation was unsatisfactory. The dismissal of the workman was based on some ulterior malafide intention and evil designs of the Management which are controlled and administered by Union leaders who are in enmity with the workman.

3. The Management has filed a written statement contending as follows :—

The workman was engaged as a boat crew of Boat No. 92 till 1983. After 1983 the system of engaging a particular set of boat crews on permanent basis to a particular boat was discontinued. After 1983 the boat crews in a batch of 5 by rotation basis were sent. The workman was a member of the Cochin Thuramugha Thozhilali Union. The Progressive Port & Dock Workers' Union is not a recognised union by the Management. The management reliably understands that no employee under it except Sri Abdu Khunju is a member of this Union. The Management received a complaint on 4-9-1984 from Shri E. J. John, Office Clerk, stating that the workman had beaten him on his face with the bill book when he tried to give the wages to the workman. The Management on receipt of the complaint issued a memo dated 12-9-1984 to the workman. The workman submitted his explanation on 13-9-1984. The management dissatisfied with the explanation of the workman informed the workman that an enquiry officer has been appointed to conduct a domestic enquiry. The workman, informed the workman that an enquiry officer conducted the enquiry complying with the principles of natural justice. The enquiry officer found that the workman is guilty of the charge. The Management on receipt of the enquiry report issued a show cause notice to the workman. He submitted his explanation which was found unsatisfactory. So he was dismissed from service. After the dismissal order was passed the workman and few employees along with their local supporters obstructed the work was thus forced to discontinue the work for about 12 days in March and 24 days in April. Meanwhile a mass petition signed by majority of the employees was presented to the Management to the effect that the work may be restored and for this they assured their full co-operation. Thereafter the work was started. The union has no locus standi or right to file a claim statement on behalf of the workman in the above dispute. The Union has no right to represent the workman as the Management has not recognised the union to represent their employees as a bargaining agent. There is no industrial dispute as referred by the Government to this court for adjudication.

4. The Union has filed a rejoinder reiterating its claims in the claim statement and refuting the contentions in the written statement filed by the Management.

5. The validity of the domestic enquiry was challenged before this Court by the Union. So that question was considered by my predecessor as a preliminary issue. This Court found as per its order dated 15-2-1988, copy of which is appended to this award as “Annexure”, that there was no proper and

valid domestic enquiry. The Management was allowed to lead further evidence before this court to prove the misconduct alleged against the workman. Thereafter the Management adduced evidence for substantiating the allegations against the workman by examining MWs. 2 to 6 and marking Exts. M8 to M15. The workman was examined as WW1.

6. The workman was charge-sheeted by the Management by a memo dated 12-9-1984 (Ext. M10) on the basis of a complaint dated 5-9-1984 (Ext. M8) received from one Shri E. J. John, Office Clerk of the Management Company. The workman was called upon to submit his explanation on the allegations contained in the complaint. He has submitted his explanation. As the Management was not satisfied with the explanation submitted by the workman, a domestic enquiry officer was appointed, who conducted a domestic enquiry and submitted a report with finding that the workman is guilty. This finding of the enquiry officer was found by this court as invalid and improper. This court has given an opportunity to the Management to adduce fresh evidence for substantiating the allegations levelled against the workman and the Management has made use of this opportunity to adduce fresh evidence, by examining MWs. 2 to 6 and marking Exts. M8 to M15.

7. MW2 is Shri E. J. John, Office Clerk, who filed a complaint against the workman. He would depose that the workman has abused him on 4-9-1984 at 4 p.m. for the recovery of Rs. 100 from the wages payable to him, on account of the loan taken by the workman. He would further depose that the workman has pulled out the bill book and beaten him on the face with the bill book. He would also depose that while he was going home at 7.30 p.m. after finishing the day's work, the workman caused to stop him outside the office by catching hold of him and pulled and pushed saying “

(Matter in Regional language)

It can be seen that even though MW2 was cross-examined meticulously and in detail, nothing was brought out to discredit his version.

8. MW3 is a Cashier in the Management Company, who would depose that he has seen the workman beating MW2 with the bill book on his face. He would also depose that the workman has abused the office clerk in filthy language and the workman has restrained the office clerk (MW2) at 7.30 p.m. while he was going home after completing his work. It can also be seen from the cross-examination of this witness that no material contradiction or inconsistency has been brought out to discredit the version of MW3 also and it is further to be noted that the evidence of MW2 is corroborated with the testimony of MW3 on the material facts.

9. MW5 Shri Berley, who is the Supervisor of the Company, has deposed that the workman has beaten the Office Clerk on his face with the bill book and thereafter the workman approached him with the bill and asked him to check the bill. From the testimony of MW5 it can be seen that he has not seen the occurrence. But soon after the occurrence MW2 approached him and told him that he was beaten by the workman on his face with the bill book.

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10. It is pertinent to note that at para 3 of the explanation Ext. M11 submitted by the workman it is stated as follows:—

(Matter in Regional language)

But when the workman was examined as WW1 he has denied all these facts. It can also be seen from the cross-examination of the workman as WW1 that he had to pay Rs. 1,000 to the Management Company on account of loan taken from the Company and the amount due to the Company was recovered from him when his salary was paid. In view of the admissions made by the workman in the explanation relating to the occurrence and the testimony of MWs. 2, 3 and 5 it has to be held that the alleged misconduct against the workman has been proved as there is no reason to disbelieve the version of MW2 and MW3 who is an eye witness to the incident and his evidence has been corroborated with the testimony of MW2. MW5 the Supervisor to whom MW2 has complained of the misconduct of the worker soon after the incident is also a relevant fact to be considered in this case.

11. The Union would contend that the testimony of MW3 cannot be relied on for the reasons that his name was not stated in the complaint Ext. M8 filed by MW2. But it is pertinent to note that MW2 has not mentioned the name of any person in the complaint who has seen the occurrence. It is core out in evidence that MW3 is the Cashier of the Management Company, who is performing his official duties in the same room where MW2 was sitting and writing the bills. MW3 has deposed that MW2 and himself are sitting in the same room for performing their duties. He would also depose that he attended the office on the date of occurrence. This evidence of MW3 would negative the contention of the Union that the evidence of MW3 cannot be relied on as his name was not mentioned in the complaint. In these circumstances, on a careful consideration of the entire evidence on record I find that the Management has succeeded in proving that the workman has committed the alleged misconduct against MW2.

12. Then the question to be considered is, what is the proper punishment that can be imposed on the workman? The learned counsel for the Management would argue that the proved misconduct is a very grave and serious and the workman has committed the misconduct during the office hours and in front of the workers of the Company and staff. It is in the interest of discipline of the Company that the workman shall be given the extreme penalty of dismissal from the service of the Company. He would further argue that the subsequent conduct of the workman after the order of dismissal would also indicate that the workman had oblique motive to obstruct the smooth functioning of the Management Company and to incur a loss of Rs. 4 or 5 lakhs. The evidence of MWs. 4 and 6 would go to show that after the dismissal of this workman from the Company he has consistently gone to the Company and obstructed the working of the Company for a period of one month and so Ext. M9 memorandum signed by 147 workmen of the Company was submitted to the Company and the workman and his benchmen have obstructed

the work of the Company for a month and thereby caused loss to the tune of Rs. 4 to 5 lakhs to the Management Company. It is also come out in evidence that the management had filed a complaint Ext. M13 before the Sub Inspector of Police, Mattancherry for police protection. It can be seen from Ext. M9 member andum signed and submitted by 147 workers of the Company that the workers have extended full support to the Management for the action taken against the workman. Exts. M14 and 15 notices containing the minutes of the meetings held by the Trade Union Leaders to discuss the above issue also show that the workman has created havoc in the Company and caused pecuniary loss to the Company as well as the Management. MW6 has spoken that the Management Company has lost confidence in the workman due to his conduct after his dismissal from the service of the Company. The learned counsel for the Management would further argue that if the workman is reinstated in the Management Company, it will effect the moral of the staff and the workers of the Company as well as the discipline of the establishment.

13. The learned counsel for the Union would argue that the punishment imposed on the workman is excessive and disproportionate to the gravity of the misconduct and the order of dismissal is an act of victimisation and comes within the ambit of unfair labour practice. The learned counsel for the Management argued relying the decision reported in *M/s. Bharath Iron Works v. Bhagubhai Babubhai Patel and others* (A.I.R. 1976 SC 98) that "the onus of establishing a plea of victimisation will be upon the person pleading it. Mere allegations, vague suggestions and insinuations are not enough—All particulars of the charge brought out, if believed, must be weighed by the Tribunal and a conclusion should be reached on a totality of the evidence produced. A proved misconduct is antithesis of victimisation as understood in industrial relations". It is to be noted that when a misconduct is proved, victimisation is ordinarily ruled out and the proved misconduct is very antithesis of victimisation, as held by the Division Bench of the Hon'ble High Court of Kerala in *Superintendent, Upper Surianella Estate v. General Secretary, Devicolam Estate Workers' Union* reported in 1986 (2) I.L.R. Kerala 368. It is also to be noted that when the workman was examined as WW1 he had no case that he was victimised and the Management practised unfair labour practice. In these circumstances, in the absence of the evidence that the management victimised the workman and the Management practised unfair labour practice and in the light of the fact that the victimisation is to be ruled out when the misconduct is proved, I find that the contention of the Union that the workman was dismissed on account of victimisation and unfair labour practice of the Management, will not hold good. As held by the Supreme Court in *Doom Dooma Tea Co. Ltd. vs. Assam Chah Karamchari Sangha* and another reported in 1960 II LLJ 56, assaulting a superior officer is a serious misconduct which justifies the dismissal of the delinquent from the service of the Company. In this case also the workman has assaulted a superior officer and this act of the workman is a serious misconduct. Further more the subsequent act of the workman would also justify the punishment imposed on the delinquent workman as his conduct after dismissal was very damaging to the Management

Company by obstructing smoothing functioning of the Company by which the Company suffered a loss of Rs. 4 to 5 lakhs. Even the Management was forced to resort to police protection for protecting the interest of the Company and to save the Management from the intimidation and violent activities of the workman. In these circumstances I hold that the punishment imposed on the workman is to be justified and no interference is called for by this Court under Sec. 11-A of the I.D. Act

14. In the result an award is passed confirming the dismissal of Shri K. M. Abdulkunju. The workman is not entitled to any relief in this reference. The reference is answered accordingly.

Ernakulam,

31-5-1989.

R. RAVEENDRAN, Presiding Officer

APPENDIX

Witnesses examined on the Management's side:

MW1 Shri V. T. Joy.

MW2 Shri E. J. John.

MW3. Shri S. Unes.

MW-4 Shri N. X. Antony.

MS5 Shri E. J. Brilay.

MW6. Shri Mohammed Koya.

Witness examined on the Union's side :

WW1. Shri Abdulkunju.

Exhibits marked on the Management's side :

Ext. M1. Copy of a letter dated 15-10-84 from The Enquiry Officer to Shri Abdulkunju.

Ext. M2. An unsigned letter dated 4-10-84 from Shri Abdulkunju to the Enquiry Officer.

Ext. M3. Copy of a letter dated 29-10-84 from the Enquiry Officer to Shri Abdulkunju.

Ext. M4. Postal acknowledgement signed by Shri Abdulkunju.

Ext. M5. A letter dated 1-12-1984 from Shri Abdulkunju to the Enquiry Officer.

Ext. M6. A registered cover (returned unserved) addressed to Shri Abdulkunju.

Ext. M7. The file containing the papers relating to the domestic enquiry held against Shri Abdulkunju.

Ext. M8. A complaint dated 5-9-84 from Sri. E. J. John to the Management.

Ext. M9. A Memorandum dated 20-4-85 submitted to the Management by 147 workmen of the Management Company.

Ext. M10. Copy of a memo dated 12-9-84 issued to Sri. Abdulkunju.

Ext. M11. Explanation of Sri. Abdulkunju dated 13-9-1984.

Ext. M12. Copy of dismissal order dated 4th March 1985 issued to Shri Abdulkunju.

Ext. M13. Copy of a petition dated 9-3-1985 from the Management to the Sub-Inspector of Police.

Ext. M14. Copy of a notice dated 13-3-1985 issued by the Management.

Ext. M15. Copy of a notice dated 25-4-85 issued by the Management.

Exhibits marked on the Union's side :

Ext. W1. A letter dated nil from the Enquiry Officer to Shri Abdulkunju.

Ext. W2. Photostat copy of letter dated 27-9-84 from Shri Abdulkunju to the Enquiry Officer.

Ext. W3. Photostat copy of a letter dated 29-11-84 from the Enquiry Officer to Shri Abdulkunju.

Ext. W4. Postal acknowledgement signed by the Enquiry Officer on 16-10-84.

Sd/-

Presiding Officer.

ANNEXURE

IN THE LABOUR COURT, ERNAKULAM
PRESENT :

Shri T. M. Hassan Pillai, B.Sc., B.L., Presiding Officer.

Industrial Dispute No. 12/86(C).

BETWEEN

The Chairman, M/s. T. K. Parakkutty and Company (P) Ltd., VII/581, Jew Town, Cochin—682 002.

AND

The General Secretary, Progressive Port & Dock Workers Union, D. No. 2/94, Calvathy, Cochin-682 001.

Representations :

M/s. U. K. Ramakrishnan,
E. K. Madhavan &
P. V. Lohithakshan,
Advocates, Ernakulam. . . For Management.
M/s. K. S. Madhusoodanan,

V. K. Unnikrishnan, A. X. Varghes,
& Thomas Chazhukaran,
Advocates, Cochin-1. . . For Union.

PRELIMINARY ORDER

The delinquent workman Shri K. M. Abdulkunju was dismissed from service after holding a domestic enquiry by the Management and this led to an Industrial Dispute between the parties. Government of India referred as per Order No. L-35012/5/85-D.

IV(A) dated 23rd December, 1985 the following issue for adjudication to the Industrial Tribunal, Madras :—

“Whether the dismissal of Shri K. M. Abdulkunju, worker from the services of M/s. T. K. Parakkutty and Company (Private) Limited, Cochin w.e.f. 8-3-1985 is justified ? If not, to what relief the workman concerned is entitled ?”

Subsequently as per Order No. L-35012/5/85-D. IV(A) dated 22-1-1986 the Government of India transferred the said dispute to this Court and withdrew the proceedings in relation to the said dispute pending before the Industrial Tribunal, Madras.

2. The workman concerned was employed in the Management concern and MW1 examined in the domestic enquiry made a complaint to the management alleging that he was beaten by the delinquent workman with a bill book on his face on 4-9-1984 while issuing bill to the delinquent. As stated earlier the workman was dismissed from service by the Management after holding a domestic enquiry and the validity of the domestic enquiry conducted by the Management is challenged by the union which espouses the cause of the workman. The Union contends that the domestic enquiry conducted by the Management is vitiated on the ground that rules of natural justice were not complied with and no opportunity was given to the workman in the domestic enquiry to conduct his defence properly. Since the validity of the managerial enquiry conducted is challenged the primary question to be considered is whether the managerial enquiry conducted is proper and valid. The further question to be decided by this Court is if it holds that disciplinary enquiry is not vitiated and is valid and proper is whether there is any legal evidence to support the findings of the enquiry officer. It need not be stated that the finding of the Enquiry Officer, who has been examined as MW1 before this Court, in the domestic enquiry is that the workman was guilty of the charge framed against him by the Management. Show cause memo was issued to the workman by the Management of receipt of a complaint made to it by PW1 (the witnesses examined on the side of the Management in the disciplinary enquiry are hereinafter described as PWs. 1 to 4 and the same is extracted below :—

(Matter in Regional language)

Memo was issued by the Management on 12-9-84 and the delinquent workman was required to give his explanation within 48 hours of receipt of memo dated 12-9-1984. The delinquent workman gave his explanation on the next day, i.e., on 13-9-1984. The explanation offered by the delinquent was found not satisfactory by the Management and by means of letter dated 17-9-84 addressed to the delinquent workman by the Management it informed him that for enquiring into the misconduct alleged against him it proposes to appoint an enquiry officer and the enquiry officer would intimate him the date, time and place of the enquiry. There is evidence before me to show that MW1 issued notice Ext. W1 to the delinquent workman stating that the enquiry proposed to be held against him would be conducted on 24-9-84 at 5 P.M. and the Corporation Tourist

Bungalow would be venue of enquiry. From MW1's evidence itself it is clear that that notice issued by him to the delinquent workman was not received by him (delinquent workman) either on 24-9-84 or earlier. The case of the Union that workman was informed by the Chairman of the Management concern on 24-9-84 at about 5 P.M. that the enquiry proposed to be held against him would be conducted at 5 P.M. on that day and there would be an ex-parte order in case he failed to participate in the enquiry is to be accepted; though the workman has not stepped into the witness box to give evidence in support of Union's case on that aspect. There is no case for the Management that the workman came to know of the posting of the enquiry to 24-9-84 at 5 P.M. from any other source and it admits its pleadings that delinquent was informed conducting of the enquiry on 24-9-1984 in the Corporation Tourist Bungalow by its Chairman on 24-9-1984. I have already found that the notice sent by the enquiry officer informing the workman about the posting of the enquiry to 24-9-84 was not received by him either on 24-9-84 or earlier. Ext. M7, the enquiry file, shows that the workman was present in the venue of the enquiry at 5.30 P.M. and four Management witnesses (Pws 1 to 4) who were examined in the enquiry were also present there. From Ext. M7 enquiry file it would be seen that though the workman stated to the enquiry officer that he had not received the notice sent by him informing him about the posting of the enquiry to 24-9-84 at 5 P.M. he was prepared to participate in the enquiry and he had no objection in conducting the enquiry on that day. MW1 in his evidence before the Court also stated that fact and I find no material before me to discard his evidence on the aspect. So it is to be concluded on the basis of the materials placed before me that there was no objection on the part of the workman to conduct the enquiry on 24-9-1984 at 5.30 P.M. and he willingly participated in the enquiry held on that day. Four witnesses were examined on the Management's side on that day and they were cross-examined by the workman. The contention of the Union that on that day workman made a request to the enquiry officer that he should be allowed to conduct his case by an Advocate and he further requested for an adjournment of the enquiry to 30-9-1984 to enable him to effectively defend and to cross-examine the witnesses produced on the side of the Management, cannot be accepted though workman asserted so in Ext. W2 (Ext. W2 is the true copy of the letter sent by the delinquent workman to the enquiry officer and it is claimed to be sent on 27-9-1984). MW1 denied those asserted facts in Ext. W3 and that is a ground supporting my above conclusion. The further ground to discard the case on that aspect of the Union is that the union has not chosen to give evidence in support of its case on that aspect. No explanation is given on behalf of the union for avoiding witness box by the workman to give evidence in support of its case. When a fact asserted by one party is denied by the Opposite Party the burden to prove the asserted fact is on the party who asserts. I cannot also accept the case of the workman concerned set up in Ext. W2 sent by him to the enquiry officer bearing the date 27-9-1984 that he asked the enquiry officer how it is possible for him who is an illiterate, to cross-examine the witnesses on the side of the Management.

No evidence has been let in by the union to support its case on that aspect and in Ext. W3, MW1 refuted clearly those asserted facts. There is no evidence before me to show that the workman is illiterate as claimed by the union of workman. The workman could have very well asked for adjournment of the enquiry stating that no notice regarding the posing of the enquiry was received by him and having come to know about the conducting of disciplinary enquiry only at 5 P.M. on that day he was not in a position to cross-examine the witnesses examined on the side of the Management. From the materials placed before me I have least hesitation to conclude that the enquiry officer was prepared to adjourn the enquiry if the workman concerned had not expressed his willingness to participate in the enquiry and conducting the enquiry on 24-9-84. The fact that the workman willingly participated in the enquiry on 24-9-84 and he had not asked for adjournment of the enquiry is a telltale circumstances to hold that the workman's case on the aspect is not true. I have already pointed out that four witnesses were present at the time of conducting the enquiry by the enquiry officer on 24-9-84 and the workman cross-examined all of them. It is true that before examining them no list of witnesses was given to the workman and it is evident from the materials on record that the notice sent by the enquiry officer informing the workman regarding the posting of the enquiry was served on him only on 26-9-84. In that notice names of the witnesses proposed to be examined by the Management were given. After having cross-examined the witnesses examined on the side of the Management on 24-9-84 there is no point in contending that the workman was not given the list of witnesses before the Management examined those four witnesses, especially when he participated willingly in the enquiry without asking for any adjournment. The Union failed to establish any case of prejudice caused delinquent on account of non-furnishing of list of witnesses examined on the side of the Management in the enquiry.

3. It could be seen from Ext. M7 enquiry file that there was no presenting officer for the Management to present and prosecute its case and the only conclusion possible from the materials on record is that the enquiry officer himself put questions to the witnesses examined on the side of the Management and elicited from them the case of misconduct put forth by the Management. Delinquent workman was thereafter allowed to cross-examine those witnesses. There is no legal compulsion that presenting officer should be appointed and the Karnataka High Court has so held in the recent decision in *Bharath Electronics Ltd. v. K. Kasi* (1987 II LLJ 203). It is not argued before me that the enquiry officer played the role of a presenting officer nor it is contended on behalf of the Union that the questions put by the enquiry officer to the witnesses are objectionable and those questions expose a state of biased mind on the part of the enquiry officer. The enquiry officer is entitled to put questions to the witnesses for clarification. The questions put to the witnesses examined on the side of the Management by the enquiry officer were not put as presenting officer and it is not argued before me that the enquiry is vitiated on that ground.

4. Ext. M-7 file shows that before examining the witnesses on the side of the Management the enquiry officer asked the delinquent workman whether he was served with the charge-sheet and he admitted that he was served with the charge-sheet and he admitted that he was served with the charge-sheet which had been marked in the enquiry as Ext. M1. (No separate charge-sheet has been drawn up except the memo dated 12-9-1984). He was further asked by the enquiry officer whether he had committed any misconduct alleged in the charge-sheet and the workman denied the guilt. The workman also stated before the enquiry officer that he had read and understood the charge-sheet and he had given his reply to the charge. His reply had been marked in the enquiry as Ext. M2. He was also asked by the enquiry officer whether he has to state anything further regarding the charge-sheet and it is not necessary for me while deciding the question of validity of the enquiry to deal with the answer given by the delinquent workman to that question put by the enquiry officer. It cannot be argued for a moment that the delinquent workman was not given by the enquiry delinquent workman was not given by the enquiry officer any opportunity to deny the charge framed against him. So the enquiry cannot be held vitiated on that ground.

5. Ext. M7 file shows that the complaint made to the Management by PW1 also had been marked as Ext. M1 in the enquiry (curiously the charge memo dated 12-9-84 also seen marked as Ext. M1 in the enquiry). Ext. M7 file disproved the contention of the Management that the complaint made to the Management by PW1 had not been marked in the enquiry by the enquiry officer. There is no case for the Management that copy of that complaint was supplied to the delinquent workman either at the time of commencing the enquiry or during the course of enquiry or earlier. No body has a case that before marking the complaint it was read over to the delinquent workman by the enquiry officer of some-one. The memo dated 12-9-84 was issued to the delinquent workman on the basis of that complaint (marked in Ext. M7 file as Ext. M1 by the Management) and the question to be decided is whether the non-furnishing of copy of that complaint violated the principles of natural justice. It has been held by the Supreme Court in a recent decision in Chandrama Tewari v. Union of India (A.I.R. 1988 S.C. 117) that the non-supply of material document relied upon against the party charged is a violation of principles of natural justice and the domestic enquiry held will be illegal and void on that ground. The following observations were made by the Apex Court in paras 4 and 9.

"4. We have given our anxious consideration to the submissions made on behalf of the appellant and we have further considered the aforesaid authorities referred to by the learned counsel for the appellant but we do not find any merit in the appellant's submissions to justify interference with the High Court's judgement. Article 311 of the Constitution requires that reasonable opportunity of defence must be afforded to a government servant before he is awarded major punishment of dismissal. It further

contemplates that disciplinary enquiry must be held in accordance with the Rules in a just and fair manner. The procedure at the enquiry must be consistent with the principles of natural justice. Principles of natural justice require that the copy of the document, if any, relied upon against the party charged should be given to him and he should be afforded opportunity to cross-examine the witnesses and to produce his own witnesses in his defence. If findings are recorded against the government servant placing reliance on a document which may not have been disclosed to him or the copy whereof may not have been supplied to him during the enquiry when demanded would contravene principles of natural justice rendering the enquiry, and the consequential order of punishment illegal and void. These principles are well settled by a catena of decisions of this Court. We need not refer to them. However, it is not necessary that each and every document must be supplied to the delinquent government servant facing the charges instead only material and relevant documents are necessary to be supplied to him. If a document even though mentioned in the memo of charges is not relevant to the charges or if it is not referred to or relied upon by the enquiry officer of the punishing authority in holding the charges proved against the government servant, no exception can be taken to the validity of the proceedings or the order. If the document is not used against the party charged the ground of violation of principles of natural justice cannot successfully be raised. The violation of principles of natural justice arises only when a document, copy of which may not have been supplied to the party charged when demanded is used in recording finding of guilt against him. On a careful consideration of the authorities cited on behalf of the appellant we find that the obligation to supply copies of a document is confined only to material and relevant documents and the enquiry would be vitiated only if the non-supply of material and relevant documents when demanded may have caused prejudice to the delinquent officer.

9. It is now well settled that if copies of relevant and material documents including the statement of witnesses recorded in the preliminary enquiry or during investigation are not supplied to the delinquent officer facing the enquiry and if such documents are relied in holding the charges framed against the officer, the enquiry would be vitiated for the violation of principles of natural justice. Similarly if the statement of witnesses recorded during the investigation of a criminal case or in the preliminary enquiry is not supplied to the delinquent officer that would amount to denial of opportunity of effective cross-examination. It is difficult to comprehend exhaustively the facts and circumstances which may lead to violation

of principles of natural justice or denial of reasonable opportunity of defence. This question must be determined on the facts and circumstances of each case. While considering this question it has to be borne in mind that a delinquent officer is entitled to have copies of material and relevant documents only which may include the copy of statement of witnesses recorded during the investigation or preliminary enquiry or the copy of any other document which may have been relied in support of the charges. If a document has to bearing on the charges or if it is not relied by the enquiry officer support the charges, or if such document or material was not necessary for the cross-examination of witnesses during the enquiry, the officer cannot insist upon the supply of copies of such documents, as the absence of copy of such document will not prejudice the delinquent officer. The decision of the question whether a document is material or not will depend upon the facts and circumstances of each case."

Though the above quoted observations were made by the Supreme Court while considering the question of validity of departmental enquiry conducted against a Government servant, the principles laid down therein are applicable to the domestic enquiries conducted by the employers. The initiation of the disciplinary proceedings against the delinquent workman was based on the complaint made by PW1 and therefore it cannot be said that the complaint marked in the enquiry is not a material or relevant document. Marking of that complaint in the enquiry shows that argument relied on it to prove the misconduct alleged. The counsel for the Management has not argued before me that the complaint made by PW1 is not a material or relevant document. So the non-supply of the copy of the complaint which was relied on by the Management in the enquiry to prove the misconduct alleged against the workman rendered the enquiry invalid. It is true that that complaint was not relied on or referred to by the enquiry officer to come to the finding that the delinquent workman committed the misconduct charge-sheeted. The mere fact that the enquiry officer has not relied on or referred to Ext. M1 complaint marked in the enquiry to come to the finding of guilt is not a ground to hold that that complaint is not a material or relevant document. It may be noted that in that complaint there is no whisper that the delinquent abused PW1 using filthy language either before or after he was beaten with a bill book by the delinquent workman on his face. If the delinquent workman was supplied with a copy of the complaint he could have cross-examined PW1 regarding the non-mention of the fact of abusing him by the delin-

quent workman either at the time of beating him with the bill book or thereafter in the complaint. That fact may have enabled him to show atleast that PW1 was exaggerating or embellishments were made by him. PW1 has stated in the enquiry that the delinquent bet him on his face with bill book and abused him in filthy language. So it cannot be contended that the non-supply of the copy of the complaint in no way prejudiced the delinquent workman to effectively cross-examine atleast PW1. So in my view the non-supply of the copy of the complaint prejudiced the workman and the non-furnishing of the copy of the complaint rendered the enquiry illegal and void. Even if we hold that non-supply of copy of complaint had not vitiated the enquiry there are other materials to reach a conclusion that the enquiry is vitiated.

6. I find no material to establish the case of the Union that the workman was present in the Corporation Travellers Bungalow on 30-9-1984 at 7 P.M. to participate in the enquiry proposed to be held on that day. The enquiry was adjourned by the enquiry officer from 24-9-84 after examining four witnesses on the side of the Management to 30-9-1984 at 7 P.M. to be held at the Corporation Travellers Bungalow. It is not the case of the Union that the workman concerned was not aware of the posting of the enquiry to 30-9-84. Evidence on record clearly shows that the enquiry was adjourned to that date in the presence of the workman and the workman was well aware of that posting. No evidence has been adduced by the Union to substantiate its case on that aspect on the aspect that workman was present in the T.B. on 30-9-1984 at 7 P.M. to participate in the enquiry and I find no reason to distrust the evidence of MW1 to the effect that he was present in the Travellers' Bungalow at 7 P.M. on 30-9-1984 to conduct the enquiry. It is true that in Ext. M2, the letter sent by the delinquent workman to the Enquiry Officer, it was stated by him that he waited from 6.30 P.M. to 7 P.M. on 30-9-84 in the Travellers' Bungalow and as the enquiry officer and the representative of the management were not found there (Travellers' Bungalow) he returned. More assertion in Ext. M2 regarding his waiting in the Corporation Travellers Bungalow on 30-9-84 between 6.30 P.M. and 7 P.M. is not sufficient to accept the case on that aspect of the union. MW1 clearly stated in his evidence that the workman was not present in the Traveller's Bungalow at 7 P.M. on 30-9-84 and in the absence of any rebuttal evidence his version on that aspect has to be accepted.

7. On 30-9-84 no enquiry was conducted by the enquiry officer on account of the absence of the workman and it is stated in Ext. M2 that on 4-10-84 the delinquent workman met the enquiry officer. He stated in Ext. M2 letter that he was not in a position to give the list of witnesses to be examined on his side

on 5-10-84 as requested by the enquiry officer and he further stated therein that the reasons for that are stated by him in his letter dated 27-9-1984 addressed to the enquiry officer. In Ext. M2 the workman made a request to the enquiry officer to furnish him the copy of the proceedings of the enquiry, if any, conducted on 30-9-1984. From Ext. M7 file it could be seen that no enquiry was conducted on 30-9-1984 by the enquiry officer and therefore there was no question of giving copy of proceedings of enquiry, if any, held on 30-9-1984.

8. The assertion of the Union that on 27-9-84 the delinquent workman sent a registered letter to the enquiry officer (the case of the union is that Ext. W2 is the copy of that letter addressed by the delinquent workman to the enquiry officer dated 27-9-84) requesting him to give him the copy of the depositions of the witnesses examined on 24-9-1984 and the proceedings of the enquiry conducted on 24-9-84 cannot be accepted on the ground that there is evidence to show that the original of Ext. W2 was received by the enquiry officer only after 15-10-84 (Ext. W4 acknowledgement proves the fact that it was received by MW1 on 16-10-84), though it (Ext. W2) is seen dated 27-9-84. It is a matter of common knowledge that a letter registered to be sent to enquiry officer on 27-9-1984 would not take nearly 20 days to reach his hands of it was actually sent on that day. It may be remembered that notices sent by enquiry officer to workman were delivered to him within one or two days after posting the same. That fact is further evident from the notice sent by the enquiry officer to the delinquent workman on 15-10-84 posting the enquiry to 19-10-84 at 6 P.M. to be held in the Corporation Traveller's Bungalow. In Ext. M1, MW1 clearly stated that no such letter (original of Ext. W2) was received by him till the date of sending that notice (Ext. W2). In that notice the enquiry officer clearly denied the assertion made by the delinquent workman in Ext. M2 that he was present on 30-9-84 at 7 P.M. at the venue of the enquiry proposed to be held on 30-9-84. In Ext. M1 which is the copy of the notice sent by the enquiry officer posting the enquiry to 19-10-84 at 6 P.M., the enquiry officer admitted the receipt of unsigned letter dated 4-10-84 sent by the workman. Nobody has a case that on 19-10-84 any enquiry was conducted and the reason stated by MW1 in his evidence that as the postal acknowledgement sending original of Ext. M1 notice was not received back on 19-10-84, the enquiry was not conducted on that day is acceptable. It is the common case of the parties that after 19-10-84 the enquiry was posted to 31-10-84 and the notice regarding the posting of the enquiry to that date was given by the enquiry officer to the delinquent workman. Copy of that notice was been marked as Ext. M3. The workman was informed by the enquiry officer that the names of witnesses proposed to be examined on his side was to be given before 30-10-84. The original of Ext. M3 notice was sent on 29-10-84 and there is no meaning in asking the workman to intimate the enquiry officer the names of the witnesses proposed to be examined on his side before 30-10-84. The workman was present on 31-10-84 at the stated time in the Corporation Travellers' Bungalow to participate in the enquiry and the enquiry was not held on that day on account of the assassination of Prime Minister Smt. Indira Gandhi.

It is not in dispute that the enquiry was posted to 1-11-84 by the enquiry officer and no enquiry was held on that day on account of declaration of 1-11-84 as holiday.

9. Ext. W3 is the photocopy of the notice sent by the enquiry officer dated 29-11-84 intimating the delinquent workman regarding the posting of the enquiry to 7-12-84 at 6 P.M. in the Corporation T.B. In Ext. W3 the enquiry officer stated that the letter bearing the date 27-9-84 and registered on 13-10-84 addressed to him by the delinquent workman was received by him and it is stated clearly in Ext. W3 by the enquiry officer that the enquiry was started on 24-9-84 for the reason that the workman expressed his willingness to participate in the enquiry and no request was made by him on that day to the enquiry officer to allow him to be defended in the enquiry by a lawyer. It is also denied in that letter the assertion made by the delinquent workman that he asked the enquiry officer that he is an illiterate person and how it is possible for him to conduct the enquiry. The enquiry officer informed the delinquent workman that there was no objection on his part to allow the workman to be represented by any co-worker or the representative of Union of which the delinquent is a member. He further informed the delinquent workman that the copies of the depositions of witnesses examined on the side of the Management, and the proceedings of the enquiry can be taken down either by the workman himself or his representative. Ext. W3 clearly disproves the case of the Union that the domestic enquiry is vitiated on the ground that the delinquent workman was not furnished with copies of the depositions of the witnesses examined on the side of the Management and proceedings of the enquiry held on 24-9-1984. By means of original of Ext. W3 the enquiry officer informed the workman that copies of the deposition of the witnesses and the proceedings of the enquiry can be taken down by him or his representative and therefore it cannot be held that the enquiry vitiated on the ground that the workman was not furnished with the copies of the proceedings of the enquiry and the depositions of witnesses. No decision of any of the High Courts or of the Supreme Court is brought to my notice laying down that it is obligatory on the part of the enquiry officer to furnish copies of the depositions and proceedings of the enquiry to the delinquent workman on demand and the offer of the enquiry officer to allow the workman or his representative to take down the copies of the depositions and proceedings of the enquiry held is not sufficient.

10. It is true that the enquiry officer turned down the request of the delinquent workman to be represented by a lawyer in the enquiry. No one has a case that the Management concern has certified Standing Orders. The Management concern had not appointed any presenting officer to present and prosecute its case and it has come out in evidence that the chief examinations of the witnesses examined on the side of the Management were conducted by the enquiry officer, though it is not argued before me that the enquiry officer played the role of a presenting officer (If the enquiry officer played the role of a presenting officer that fact alone will be sufficient to vitiate the

enquiry). The question put to the witnesses examined on the side of the Management by the enquiry officer will reveal the fact that to put those questions one should not be and need not be trained in law and those will be questions put by any person of fair intelligence and knowledge to elicit the truth. Merely because the enquiry officer put questions to the witnesses examined on the side of the Management and elicited the case of the Management we cannot say that the workman is pitted against a lawyer in the matter of his defence and as he was not allowed to be defended by a lawyer in the enquiry, the enquiry was vitiated. It is true that the enquiry officer is a lawyer. There is no legal right vested in the delinquent workman to be represented by a lawyer in a disciplinary enquiry conducted by the Management unless Standing Order expressly permits him to avail the service of a lawyer or a person who is trained in law to defend his case. If the Presenting Officer is one who is a legally trained person the workman has a right to be represented by a lawyer or legally trained person to defend his case. In domestic enquiry usually no complicated questions of law or facts are involved (here in the instant case also no complicated questions of law or facts are involved) and the workman himself is best suited to conduct his case. The position is well settled by a recent decision of our Hon'ble High Court rendered by his Lordship Justice Bala Krishna Menon (1988-2-K.L.J. 720). His Lordship observed :—

“The next question is whether the enquiry is vitiated for the reason that the petitioner's request to engage a lawyer was not accepted. Referring to this aspect of the case the Tribunal states that by Ext. W17 reply of the enquiring the services of a professional lawyer was rejected giving him permission to have the services of a friend or a colleague to defend him. The Tribunal also finds that the management was not assisted by a trained lawyer at the enquiry and the workman was not pitted against a person trained in law in the matter of his defence. The Tribunal refers also the Ext. M17 settlement between the management and its workmen under which an employee may have the services of a lawyer to defend him if only the management permits. The management had not given any such permission and the petitioner had no right to be defended by a lawyer at an enquiry where the management did not have the assistance of a lawyer to present its case. As held by the Supreme Court in *Kalindi v. Tata Locomotive and Engineering Co. Ltd.* (1960-2-J.J.J 228) domestic enquiries are not enquiries in a court of law and ordinarily in these enquiries simple questions of fact as to whether certain acts of misconduct were committed by a workman or not only fall to be considered. Straight forward questioning which a person of fair intelligence and knowledge of condition prevailing in the establishment will be able to do will ordinarily help to elicit the truth. In most cases

it was held that the accused workman will be best suited and fully able to cross-examine the witnesses who have spoken against him and to examine witnesses in his favour. In Board of Trustees' case (*supra*) it is held at pages 113,

‘in fact one can go so far as to say that the Enquiry Officer in order to be fair and just, whenever he finds the employer appointing legally trained persons as Presenting-cum-Prosecuting Officers must enquire from the delinquent employee before commencement of enquiry whether he would like to take assistance of a legal practitioner.’

That was a case where the management had the services of two legally trained persons as presenting-cum-prosecuting officers against the employee and the failure of the Enquiry Officer to allow the employee to have the services of a legally trained person for his defence was held to vitiate the domestic enquiry. In the present case, as noticed earlier, the questions involved in the enquiry were only pure questions of fact and the management had not engaged a legally trained person as presenting officer. A Division Bench of this Court in *Saran v. Cochin Refineries Ltd.* (1985 KLT 1171) after considering the decisions in Board of Trustees' case (*supra*) and *R. V. Secretary of State for the Home Department and others ex parte Tarrant and Another and R. V. Womwood Scrubs Prison Board of Visitors ex parte Anderson and others* (1984 (1) All E. R. 799) held at page 1174 :—

‘We are fairly clear in our minds that in the absence of rules it is in the discretion of the Enquiry Officer to permit legal representation at a domestic enquiry unless the delinquent officer is pitted against a legally trained person engaged by the management as Presenting Officer.’

By means of original of Ext. W3 and notice containing in Ext. M6 cover the enquiry officer rejected the prayer of the workman to have the service of an Advocate to defend his case. He stated in the notice issued on 17-12-1984 that no complicated questions of fact and law are involved in the enquiry and therefore workman would not be allowed to be defended by a lawyer. The enquiry officer was quite right when he rejected the prayer that the workman be allowed to be represented by a lawyer and the reason stated by him for rejecting the prayer is also good. A perusal of the enquiry file would show that no complicated questions of fact or law were involved in the domestic enquiry and the only question to be decided by the enquiry officer is whether the misconduct alleged is proved (to prove the misconduct management need not prove only the simple fact of alleged beating etc. of PW1 by delinquent) against the workman or not. It is true that in Ext. W1 it is not stated by the enquiry officer that the workman was entitled to be represented by a member of his Union or a Co worker in the enquiry. The omission to state

in that notice that the workman is entitled to be represented by a co-worker or representative of the Union of which he is a member is not a ground vitiating the enquiry. It may be noted that for the first time a request was made by the workman concerned to the enquiry officer to permit him to have the service of an Advocate to defend his case by means of original of Ext. W2 and it was received by the enquiry officer only on 16-10-84. It is true that the request to have the service of an Advocate was impliedly refused by the enquiry officer for the first time while sending the original of Ext. W3 and there was no mention about that request in Ext. M3. That fact also is not a ground to hold that the decision of the enquiry officer not to allow the delinquent workman to be represented by a lawyer in the enquiry is an after-thought. Acceptable explanation has been given by the enquiry officer for not dealing with the request of the workman made in Ext. W2 in Ext. M3 notice and the reason stated by him in his evidence is that he thought that those matters could be considered by him in the enquiry to be held on 31-10-84.

11. It is true that no enquiry was conducted by the enquiry officer on 10-11-84 and 7-12-84 and the fact of nonconducting of the enquiry on those days is also relied on by the Union as grounds vitiating the enquiry. There is no allegation in the claim statement that the workman was prejudiced in any way on account of non-holding of enquiry on 10-11-1984 and 7-12-84. It is true that the proceedings of the enquiry officer do not show why no enquiry was held on those days. Even if the enquiry officer has given no reason for adjourning the enquiry proposed to be held on 10-11-1984 and 7-12-1984 I fail to understand how that fact will vitiate the enquiry and the contention based on non-holding of enquiry on those days is bereft of force.

12. There is evidence to show that the enquiry officer issued notice to the delinquent workman intimating him that the enquiry was proposed to be held on 20-12-84 and that notice was returned with an endorsement made by the Postman to the effect that the delinquent workman refused to accept the same. The cover containing that notice has been marked as Ext. M6. Though it was suggested that the endorsement "refused" was made clandestinely there is no evidence to prove the suggestion put to MW1 to that effect. Mere putting of suggestions to witnesses will not be substitute for evidence and if the workman concerned had not actually refused to receive the notice as asserted the best person to give evidence regarding that fact is the workman himself. No other reason is stated by postman for sending back Ext. M6 to the sender. For reasons best known to the Union and the workman the workman failed to step into the witness box and give evidence in support of his case I find no reason to discard the endorsement "refused" made on the back of Ext. M6 cover and I have no hesitation to hold on the basis of that endorsement that the workman concerned refused to accept that notice. There is no acceptable material before me to show that regard-

ing posting of the enquiry to 29-12-84 any notice was issued by the enquiry officer to delinquent and it is nobody's case that the enquiry was held on 20-12-84, through in the notice containing in Ext. M6 cover it is stated that the enquiry was proposed to be held on 20-12-84. Ext. M6 is claimed by the management as the cover containing notice regarding posting of enquiry to 29-12-1984. It is seen that on 29-12-84 the workman was set ex-parte by the enquiry officer on the ground that he was not present in the enquiry. Without issuing any notice to the workman concerned posting the enquiry to 29-12-1984 no one can expect him to be present in the enquiry proposed to be held on that day and therefore there was no justification for declaring him ex-parte. It may be noticed that the names of five witnesses proposed to be examined on the side of the management were given in Ext. W1 notice and only four out of five witnesses were examined on 24-9-1984. It is clear from the evidence of MW1 that the enquiry was posted to 7-12-84 for the further evidence of the Management. He stated in cross examination "7-12-1984

(Matter in Regional Language)

". No enquiry was held on that date and we are not much concerned with the reason for not holding the enquiry on that date. There is no evidence to show that notice was given to the delinquent workman regarding posting of the enquiry to 29-12-84 and without giving him notice regarding the posting of the enquiry to that date the enquiry officer is not justified to declare the workman ex-parte on that day.

13. Management adduced no evidence on 29-12-1984 and it closed its evidence. In the notice containing in Ext. M6 cover it is stated by the enquiry officer that workman's request to recall the witnesses examined on the side of the Management will be considered at the time of conducting enquiry. Ext. M6 cover was returned to the enquiry officer only after 29-12-84 and such an inference is drawn by me from the fact of making an endorsement by the postman on 29-12-84 to the effect "unable to meet him at delivery time". So it might have been delivered on the next day. In view of my finding that no notice was given to the workman regarding the posting of the enquiry to 29-12-84 it is to be held that the workman was declared ex-parte by the enquiry officer without any justifiable reason and the enquiry is vitiated on that ground.

14. Before winding up the discussion I am constrained to observe that though the enquiry was conducted by a lawyer the proceedings of the enquiry were not correctly recorded by the enquiry officer. The proceedings of the enquiry would not show that there was posting of the enquiry to 10-11-84. It is an undisputed fact that the enquiry was posted to 10-11-1984 and that fact is also admitted by the enquiry officer in his evidence. The enquiry proceedings do not show that the enquiry posted to 7-12-84 was adjourned for some reason. I need not stress that the proceedings of the enquiry must be a true and correct record of what

transpired in the enquiry and dates, of posting of the enquiry etc. Further I have noted that though the complaint made by PW1 had been marked as Ext. M1 in Ext. M7 file that fact is not mentioned in the enquiry report. The complaint made by PW1 is seen to be marked in the enquiry as Ext. M1 before marketing the memo dated 12-9-84. The fact that the endorsements marking the memo dated 12-9-84 and the explanation given by the workman as Exts. M1 and M2 respectively were made in different ink may give rise to a suspicion that those endorsements were made subsequently and it is advisable always that the enquiry officers should not give room for any such doubt.

15. In view of my finding that the enquiry conducted by the management violated the rules of natural justice it is unnecessary for me to consider the question whether the finding of the enquiry officer is supported by legal evidence. If the rules of natural justice were not violated I would have held that there is legal evidence to support the finding of the enquiry officer.

16. Hence I hold that the domestic enquiry conducted by the Management is not proper and valid. Since the Management has prayed for giving it an opportunity to prove the misconduct alleged against the workman concerned in case the court finds that the domestic enquiry is not proper and valid, the case is posted for further steps to enable the Management to lead evidence to prove the misconduct alleged.

Dictated to the Confidential Assistant, transcribed and typed out by him, corrected by me and declared in open court on this the 15th day of February, 1988.

T. M. HASSAN PILLAI, Presiding Officer.
[No. L-35012/5/85-D.IV(A)/D.III(B)]

का.प्रा. 1703.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टूटीकोरिन पोर्ट ट्रस्ट, टूटीकोरिन के प्रबंधन में सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधिकरण, मद्रास के विचार को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-6-89 को प्रस्तुत हुआ था।

S.O. 1703.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the award of the Industrial Tribunal, Madras as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Tuticorin Port Trust, Tuticorin and their workmen, which was received by the Central Government on the 22-6-89.

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL,
TAMILNADU, MADRAS

Wednesday, the 26th day of April, 1989

INDUSTRIAL DISPUTE NO. 35/86

(In the matter of the dispute for adjudication under Section 10(1)(d) of the Industrial

Disputes Act, 1947 between the workman and the Management of Tuticorin Port Trust, Tuticorin.)

BETWEEN

The Workman represented by
The Secretary,
Tuticorin Port Traffic Employees' Union,
34, George Road, Tuticorin-3

AND

The Chairman,
Tuticorin Port Trust,
Tuticorin.

REFERENCE :

Order No. L-44012/3/85-D.IV(A) dt. 26-5-86
of the Ministry of Labour, Government of
India, New Delhi.

This dispute after restoration coming on for final hearing on Thursday, the 10th day of November, 1988 upon perusing the reference, claim and counter statements and all other material papers on record and upon hearing the arguments of Thiru G. Balaram, Authorised Representative for the workman and of Thiru M. Venkatachialappathy, M. Sriram, S. M. Loganathan and S. Krishnan, Advocates appearing for the Management and this dispute having stood over till this day for consideration, this Tribunal made the following :

AWARD

This dispute between the workman and the Management of Tuticorin Port Trust, Tuticorin arises out of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947 by the Government of India in its Order No. L-44012/3/85-D.IV(A) dated 26-5-86 of the Ministry of Labour for adjudication of the following issue :

"Is the management of Tuticorin Port Trust, Tuticorin justified in imposing a punishment of stoppage of one increment with cumulative effect on Shri C. Nobili, Supervisor of the Traffic Department of the Port vide Management's Order No. T. 18-3-84/Con.IE dated 10-1-1985 ? If not to what relief the workman is entitled ?"

2. The averments in the claim statement are the employee—Respondent C. Nobili was working as Supervisor in the Traffic Department during the 3rd shift on 24-8-84 he was charge-sheeted and subjected to domestic enquiry on the basis of charges connected to the case of theft. The case of the Management is the Assistant Commandant along with the Head Constable had surprise inspection on 24-8-84 at 11.40 hours he notice that the door of the lock-fast attached to the transit shed in berth No. II was kept open and Nobili was seen in side the lock fast room and he was also in possession of some jute twine in his hand. The Assistant Commandant had not given complaint to the higher authorities immediately. He has also not complained to the Police. He also made no attempt to recover the articles of theft from Nobili. He only filed a report after 3 days. The testimony

of the Assistant Commandant, C. V. Josheph, before the Enquiry Officer is not true and contradicted himself the statement given by him on 27-8-84 and therefore it is highly unbenevolent. No statement was given by Head Constable, Sundaram, about the theft on 24-8-84 and he deposed about the search of the lock fast first time before the enquiry officer and on made a search he made a statement on the date of occurrence itself. There is an evidence of Assistant Traffic Manager that on 27th evening when he made enquiry one Pon Immanuel and also found that Pon Immanuel was on duty with Nobili but the delinquent was not permitted to examine the said Pon Immanuel, who is vital to prove that Nobili was not involved in the theft. The delinquent was not given fair opportunity from the Enquiry Officer, who acted bias and prejudice. The finding of the Enquiry Officer was not based on available materials placed before him but purely surmises. There is no clinching evidence to prove the allegation against the delinquent. The Enquiry Officer has not conducted the enquiry properly in accordance with provisions of law. The non-examination of material witnesses on the side of the employee has highly vitiated the enquiry. The punishment given is excessive and disproportionate. Hence the order of punishment imposed on the petitioner is to be set aside.

He also filed additional claim statement stating since there was no certified Standing Orders applicable to the Tuticorin Port Trust, the model standing orders would be applied. According to the Industrial Employment (Model Standing Orders) Central, 1946, and the rules before imposing any penalty, show cause notice after the enquiry should have been given to the delinquent before imposing the proposed punishment. Such notice is not given in this case. The Enquiry Officer passed an Order dated 5-12-1984 refused to allow the delinquent to examine Shri Thinakaran, Pon Immanuel and F. Bannister as additional witnesses on his behalf. The Petitioner also filed a rejoinder stating that the Tuticorin Port Trust has been exempted from all provisions of Industrial Employment (Standing Orders) Act, 1940 (Act 20 of 1946) in and by an Notification issued by the Government of India in exercise of the powers conferred by Section 14 of the said Act. But the exemption is only subjected to conditions. The Respondent-Management has not fulfilled those conditions. Therefore the exemption is not applicable.

4. The Respondent-Management in its counter statement states that the said Nobili while working as Supervisor in Third shift on 24-8-84 was caught red-handed in the shed breaking open one of the sealed packages containing towels and committing theft. When the Assistant Commandant, Central Industrial Security Force in Tuticorin Port went round the wharf at about 23-40 hours on 24-8-84 on the instructions of Traffic Manager to keep vigilance for various sheds and cargoes lying outside. In view of nation-wide banth on 25th August, 1984, while so, he found in Shed No. II, the lock fast door was found partially opened and light was on as there was no sound coming from inside the shed, he and Head Constable Sundaram entered the shed and found C. Nobili

inside the shed and he was questioned why the lock fast was opened and why this shed was not locked while other sheds were kept closed. Nobili had not given proper reply. He was also holding some Jute twine attached to a needle in his hand. Thereupon the Assistant Commandant and the Head Constable checked and searched the shed and they found the white towels lying on the sealed packages. They also found one of the sealed packages were lying in the top end at the extreme right row and was found cut opened. According to them one C. Nobili was interrogated while so he admitted that he cut opened the sealed packages and taken the towels from the packages. The Assistant Commandant recovered the jute twine with the needle from C. Nobili. The Enquiry Officer followed the procedure as per rules and penalty of cut in one increment with cumulative effect was imposed only after the enquiry. The Assistant Commandant found the theft made by Nobili and he sent a report to the Traffic Manager on 27-8-84 since 25-8-84 being a banth day as there was no office working on that day. The delinquent being an employee in the Respondent-Management working under the control of Traffic Manager, who is the Head of Department and competent authority for taking action against the employee, no complaint need be filed before the police. The Assistant Commandant recovered three towels taken away by Nobili and forwarded the materials to Traffic Manager. It is not necessary to obtain any statement from the Head Constable since he has accompanied with the Assistant Commandant during inspection. Nobili since had not furnished the list of witnesses to be examined nor had mentioned during the enquiry; Pon Immanuel was not examined. The Management on a proper report after conducting enquiry on following the principles of natural justice came to the conclusion regarding the offence committed by the Petitioner. The delinquent employee was given fair opportunity to adduce evidence on his side and also cross-examined the witness of the Management. The averment that the Enquiry Officer acted bias and prejudice are not true. The Management firstly appointed one N. Subramanian, Assistant Traffic Manager, as an Enquiry Officer and since objected to by the delinquent the present Enquiry Officer was appointed to hold the true. The Management firstly appointed one N. Sub- of withholding of one annual increment with evaluative effect cannot said to be an excessive. The delinquent has said in his evidence that he was not allowed to examine one of the Management Witness Pon Immanuel. The punishment is absolutely necessary to enforce discipline among the employees and maintain decorum. This Tribunal may be pleased to dismiss the dispute and pass such further orders.

5. The Respondent in its additional counter states that the Tuticorin Port Trust has got its own Rules and Regulations and the same has been notified in the gazette as required as early as 1-3-1979 and further the Tuticorin Port Trust has been exempted from all provisions of Industrial Employment (Standing Orders) Act 1946 in and by Notification dated 15-4-1980 issued by the Government of India in exercise of the powers conferred by Section 14 of the Act.

6. The point for determination is (i) whether the Respondent-Management is justified by imposing a punishment of stoppage of one increment with cumulative effect on Sri C. Nobili, Supervisor, Traffic Department, (ii) if not what relief?

7. M-1 to M-20 were marked by consent. No oral evidence was adduced on either side.

8. Before going into the merits of the case, the learned Authorised Representative raised a legal contention namely that the Government has exempted the Respondent from all provisions of Industrial Employment (Standing Orders) Act 1946 subject to certain conditions and the Respondent-Management if had not applied those conditions, the exemption is no longer applicable. It is also, due to the notification, not applicable to the Respondent-Management in view of not following the conditions contained in the notification in those without saying that the provisions of Industrial Employment (Standing Orders) Act, 1946 would apply to the Respondent-Management especially in the absence of certified Standing Orders. It is seen from the fact that the Respondent-Management has been exempted from all provisions of Industrial Employment (Standing Orders). It can be seen from notification dated 15-4-80 by Central Government produced on behalf of the Management under M-20. It imposes three conditions of which the first condition is "the Port Authority should publish or cause to be published consolidated rules relating to the matters set out in the schedule to the said Act in a pamphlet in the English Language and the language or languages understood by the majority of the workmen." The Second condition is "before making any amendment to the said rules, the Port authorities shall inform the workmen concerned by a notice on the notice board of the proposed amendment and shall consider any objection or suggestion that may be made thereto within 21 days of such notice"; third is "a copy of the pamphlet referred to in 1st condition and a copy of every amendment shall be supplied to each of the workmen concerned."

9. Admittedly, in this case the conditions imposed by the Central Government for exempting the model standing order have not been complied with. However, the learned counsel for the Respondent-Management contended that even before M-20 Notification by the Central Government by virtue of its powers under Section 126 read with section 28 of the Major Port Trust Act had made Regulations called Tuticorin Port Employees (Classification, Control and Appeal) Regulations, 1979. In another words, it is the contention of the Respondent-Management that in view of Regulations, already existed in 1979, the present notification under M-20 is not applicable. According to him the application of M-20 to the Respondent-Management would arise only that there are no regulations enacted by the Central Government under the Act. It appears, according to the Respondent-Management, that the M-20 Notification is redundant one, which has no effect and need not be followed. At this stage the Officer concerned without even noting the existence of Regulations in 1979, had got the exemption under M-20 and approved by the Central Government. Though the files relating to as to how the

notification came to be issued are not before this Tribunal, it seems the Respondent-Management had approached the Central Government to issue notification exempting the Provision of the Model Standing Orders without even cared to find out whether the regulations already issued under the Act exist or not. It only shows the manner in which the affairs are conducted by the Officials of the Port Trust including the Chairman. Nobody cared to verify whether such regulation exists or not before requesting the Central Government to issue a Notification under M-20. It is still more curious how the Central Government issued a Notification under M-20 without verifying whether regulations are already there or not. The result now could be in the light of existing regulations issued by the Central Government under Section 126 of the Port Trust Act, the Notification under M-20 has no effect since the conditions were not complied with. The next question would arise whether all Standing Orders would apply in this case. In my view in the light of the regulations issued under Section 126 of the Major Port Trust Act covering employees of the Respondent-Management, M-20 has no effect and it should be treated as honest. Of course, the learned Authorised Representative referred to 1981-II-L.L.J. page 25 and would contend that when the Medical Standing Orders are applicable and if an employee was dismissed from service, without giving a Second Show Cause Notice regarding the proposed punishment, as provided for in Model Standing Order 17(4), it would vitiate the order of dismissal. In this case, the delinquent has been dismissed from service under M-4 without giving Second Show Cause Notice. In this connection, the contention of the learned counsel for respondent is in so far as the Model Standing Orders will not apply only the regulations issued under 126 Major Port Trust Act are applicable when no provision for second show cause notice is contained under regulation it is not obligatory on the part of the Respondent Management to issue a second show cause notice. It is seen from Rule 15(4) of the Tuticorin Port Employees (Classification, Control and Appeal) Regulation, 1979 that "disciplinary authority on the basis of evidence adduced during the enquiry is of opinion that any of the penalties specified in clauses 5 to 9 of Rule 15 should be imposed on the Government Servant, it shall make an order imposed such penalty, it shall not be necessary to give the Government Servant any opportunity of making a representation in the penalty proposed to be imposed." In view of this rule, it is not obligatory to issue a Second Show Cause Notice to the delinquent before imposing the proposed punishment. In 1984-II-L.L.J. page 132 also relied on to show the Model Standing Order would apply. There cannot be any quarrel over the law laid down in the above decision. Therefore, the plea of the Petitioner that the punishment imposed by not following the Model Standing Orders Rules is not legal, cannot be accepted.

10. Having disposed of the legal issue and coming to the merits of the case of Petitioner-Management is that on the basis of M-1. report by the Assistant Commandant L. V. Josheph to the Traffic Manager regarding the theft of items held at wharf by Nobili, Supervisor, Traffic Department, the charge-sheet was issued under M-2 to the above said Nobili that on

24-8-84 while he was functioning as a Supervisor in the Traffic Department during the third shift had tampered with the sealed packages containing cloth piece goods stored in the Lock fast room of Transit Shed No. 11 at V.O.C. Wharf and stolen towels from the sealed packages, thereby violated the provisions of regulations 3(1) of the Tuticorin Port Employees (Conduct) Regulations, 1979. An explanation was submitted by the delinquent-employee under M-7 admitting his presence during third shift on 24-8-84 in 11 berth but his explanation is that on receipt from the shipping control through a messenger, the Traffic Manager had instructed to keep all the doors of the transit shed closed intact due to Bandh and that he would make an inspection and therefore he inspected whether all the doors had kept properly locked and during his inspection he noticed the second gate of transit shed No. 11 was under repairs could not closed and waiting there for the Traffic Manager for his inspection. After M-7 explanation an enquiry was conducted under M-11 to M-13. The Enquiry Officer found him guilty under M-3. The Petitioner would attack the Enquiry firstly that it was not fair since the Enquiry Officer has not followed the principles of natural justice by not giving an opportunity to examine the witness. In this connection, the main attack seems to be that he gave an application under M-14 to examine certain witnesses namely Pon Immanuel and two other witnesses before the Enquiry Officer, which was rejected by the Enquiry Officer as can be seen from M-15 and M-16 of which M-15 is the notes file of the Enquiry Officer and M-16 is the order and communication, i.e. reply of the Enquiry Officer rejecting permission. In this connection notice file namely M-15 reveals that as per Order 15(c) of the Regulations of Tuticorin Port Trust Employees, that the Enquiry Officer may allow the employee to produce new evidence if it is of the opinion that the production of such evidence is necessary in the interest of justice. But the note attached to that provision says that new evidence shall not be permitted or called for and no other witness shall be recalled to fill up any gaps in the evidence. Such evidence may be called for only when there is an inherent or defect in the evidence, which has been produced originally. Relying on this provision, the Enquiry Officer has rejected the request of the delinquent employee. Therefore it cannot be contended that the Enquiry Officer has not given opportunity. However, it is seen from the cross-examination of the delinquent before the Enquiry Officer he has categorically admitted that since the witness was not present at that time and went somewhere to make a phone call, he did not examine him as a witness. Again to a question whether atleast after the incident was over, he might have told about the incident and why he was not produced. The answer given by the delinquent is that he explained to him the incident and since he was not at the site to become an eye-witness, he did not include him as a witness. Thus it is seen the witness himself had stated during the relevant time he was not present and therefore did not include him. Hence the Enquiry Officer is justified in refusing the permission on both grounds. That apart a look at the Enquiry Proceedings under M-11 shows that he

has scrupulously followed the procedures and the regulations. It is seen that originally one Subramaniam was appointed as the Enquiry Officer and on objection of the delinquent A. Manthiramurthy was appointed as Enquiry Officer. Hence viewed from any angle the contention of the Petitioner that no opportunity was given to the delinquent during the course of the enquiry, cannot be accepted. It is also contended that due to ill-feeling he has been falsely implicated. In this connection, one witness was examined namely Subramaniam, Kharasi before the Enquiry Officer who says that he was posted to give water supply at third berth on 24-8-84 and when he returned to control room to get a torch light he saw Nobili was speaking loudly to two persons who were in the motor cycle in front of the shed No. 11. Except this version there is nothing to show that there was any quarrel between them and whether the Assistant Commandant namely Joseph the 1st witness threatened the delinquent employee. The witness namely Subramaniam examined on the side of the delinquent has not spoken to anything about the discussion that took place between the delinquent and the Assistant Traffic Manager, Joseph. Therefore there is no merit in this contention also. It is seen the 1st witness has spoken to in detail that how Nobili was caught red-handed and also intimidated the same under M-1 to the Traffic Manager. It should not be forgotten that the Assistant Traffic Manager Joseph while he was carrying out the instructions along with Head Constable S. Sundaram and having found the lock-fast door was partially opened and light was burning inside, he entered with suspicion and actually found Nobili inside of the shed holding with jute twine in hand. Subsequently when he searched the shed he found three white towels lying on the sealed packages and one sealed package was found cut open. At this stage, an explanation under M-7, that he came to the place since he was informed that the Traffic Manager would make a visit. In this connection except ipse dixit the delinquent employee Nobili, no evidence has been adduced by examining the messenger, who passed on the message regarding ensuing visit of the Traffic Manager. It is the case of the delinquent that he received the message from the shipping control through the messenger. If this version is true he could have examined the messenger, who brought the message, or the Traffic Manager under whose instructions he went to the shed when there was no work. In the absence of the same it only appears that he had been to the place of occurrence with the pre-planned motive. It is also significant to note from the evidence of Nobili that the lock-fast can be opened in the presence of Traffic Supervisor and how is it possible that the three towels produced to the Traffic Manager along with the written complaint M-1 by the Assistant Commandant would have been obtained, since the lock fast cannot be opened without the presence of Supervisor. The fact since the delinquent-employee was caught red-handedly by L. V. Joseph, the Assistant Commandant and Sundaram, Head Constable. It is now urged a false case has been now set up which is an after thought. The evidence given by Joseph, Sundaram and Thangadurai before the Enquiry Officer bear testimony to the act committed by the delinquent

employee. Their evidence support the Petitioner-Management before the Enquiry Officer. The Enquiry Officer in his finding M-3 has given convincing reasons on the basis of records available before him that the delinquent Nobili is guilty. A scrutiny of finding under M-3 would show in unmistakable terms, no prudent person would have come to any other finding other than the one found by the Enquiry Officer. It cannot be said that the finding of the Enquiry Officer is preverse and therefore penalty imposed to be set aside. For all these reasons (i) this point is found against the Petitioner; (ii) in the result the workman is not entitled to any relief.

11. Hence an award is passed rejecting the claim and holding the proposed punishment of stoppage of one increment with cumulative effect on Nobili, Supervisory, Traffic Department, is justified. No costs.

Dated, this 26th day of April, 1989.

K. NATARAJAN, Industrial Tribunal

[No. L-44012/3/85-D.IV(A)D III(B)]

WITNESS MARKED

For both sides : None.

DOCUMENTS MARKED :

For workmen : Nil.

For Management :

Ex. M-1|27-8-84—Report of the Assistant Commandant, Tuticorin Port Trust about the theft by Thiru Nobili (Petitioner workman) to the Traffic Manager, Tuticorin Port Trust (Photostat copy).

M-2|12-9-84—Charge sheet issued to Petitioner workman (Photostat copy).

M-3—Enquiry Report (Photostat copy)

M-4|22-4-85—Order of the Chairman, Tuticorin Port Trust dismissing appeal preferred by Petitioner-workman (Xerox copy).

M-5|13-9-84—Request from the Petitioner-workman for copies of documents, witnesses etc. (Xerox copy).

M-6|19-9|84—Request from the Petitioner-workman for granting of extension of time (Xerox copy).

M-7|27-9-84—Reply by the Petitioner-workman to charge sheet. (Xerox copy).

M-8|24-10-84—Letter from the Petitioner-workman for permission to engage a defence assistant (Xerox copy).

M-9|13-11-84—Order appointing Enquiry Officer (Xerox copy).

M-10|13-11-84—Order appointing Presenting Officer (Xerox copy).

M-11|23-11-84—Enquiry Proceedings (Xerox copy).

M-12|1-12-84—Enquiry Proceedings (Xerox copy).

M-13|4-12-84—Enquiry Proceedings (Xerox copy).

M-14|4-12-84—Request from the Petitioner-workman for examination of witness. (Xerox copy).

M-15—Notes file of the Enquiry Officer (Xerox copy).

M-16|5-12-84—Reply of the Enquiry Officer to Ex. M-15 (Xerox copy).

M-17|10-12-84—Enquiry Proceedings (Xerox copy).

M-18|13-12-84—Enquiry Proceedings (Xerox copy).

M-19|15-12-84—Enquiry Proceedings (Xerox copy).

M-20|15-12-84—Tuticorin Port Trust (Adaptation of Rules) Regulation, 1979, (Xerox copy).

का.आ. 1704—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) को धारा 17क के अनुसरण में, केन्द्रीय सरकार मद्रास स्टीवेडोर एसोसिएशन, मद्रास के प्रबंधन में सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक-अधिकरण, मद्रास के पंचाट को प्रकाशित करना है, जो केन्द्रीय सरकार को 22-6-89 को प्राप्त हुआ था।

S.O. 1704.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Madras as shown in the Annexure in the industrial dispute between the employers in relation to the management of Madras Stevedores Association, Madras and their workmen, which was received by the Central Government on the 22-6-89.

ANNEXURE 'A'

BSFORE THE INDUSTRIAL TRIBUNAL,
TAMILNAUD MADRAS

Monday, the 8th day of May, 1989

Industrial Dispute No. 56 of 1976

[In the matter of the dispute for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 between the workman and the Management of Madras Stevedores Association, Madras-1].

BETWEEN :

The workmen represented by
The President,
Tamil Nadu Trade Union Congress,
No. 123/124, Moore Street,
Madras-600001.

AND

1. The Chairman,
Madras Stevedores Association,
Madras Dock Labour Board Buildings,
First Line Beach, Madras-600001.
2. The Chairman,
The Madras Dock Labour Board,
Madras.

REFERENCE:—ORDER No. L-33012(2)
76-D.IV(A), dt. 27-10-76 of the Ministry
of Labour, Government of India, New
Delhi.

This dispute after restoration coming on this day for final disposal in the presence of Thiru D. Hariparanthaman, Advocate for the workman and of Tvl. Aiyar & Dolia and AR. Gokulnath. Advocates for the Managements upon perusing the reference, claim and counter statements and all other material papers on record and both parties having filed a joint memo and recording the same, this Tribunal passed the following.

AWARD

This dispute between the workman and the Management of Stevedores Association, Madras arises out of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947 by the Government of India in its Order No. L-33012(2) 76-D.IV(A), dt. 17-10-76 of the Ministry of Labour for adjudication of the following issues :—

“Whether the Chairman, Madras Stevedores Association was justified in terminating the services of Shri K. Muthiah, General Secretary of Tamilnadu Port and Dock workers Welfare Association (now renamed as Tamilnadu Trade Union Congress) with effect from the 25th February, 1974. If not, to what relief is he entitled and from what date?”

2. On receipt of notice from this Tribunal, the parties appeared.

3. The Union espousing the cause of the workman has filed a claim statement. In repudiation thereof the Management filed their counter statement.

4. On 11-2-85 my predecessor has passed on exparte award respecting the claim of the Union.

5. On 19-9-86, the workman filed Misc. Appln. No. 106/86 praying to set aside the exparte award.

6. After several adjournments when the application was called to-day, both parties filed a joint memo made an endorsement in the application that in view of the joint memo this Honourable Court may

be pleased to allow the application and an award may be passed in terms of settlement.

7. In view of endorsement, the application is allowed and exparte award is set aside and Industrial Dispute is restored to file. Joint Memo is recorded.

8. Hence an award is passed in terms of Joint Memo. No. costs.

Dated, this 8th day of May, 1989

Sd|—

K. NATARAJAN, Industrial Tribunal.

[No. L-33012(2)|76-D.IV(A)|D.III(B)]

BEFORE THE INDUSTRIAL TRIBUNAL AT
MADRAS

I. D. No. 56 of 1976.

K. Muthiah

.. Petitioner.

—Vs—

Madras Dock Labour Board, .. Respondent.
Joint Memo Filed by the Petitioner and Respondent.

1. The Petitioner categorically undertakes not to claim wages for the period between 21-8-1971 and the date of his fresh employment from Madras Dock Labour Board;

2. The Petitioner gives up once and for all his claims for back wages and service benefits as specified in the petition and agree for fresh employment.

3. On the above premises, the respondents agree to take the petitioner afresh in the service to the cost of supervisor.

Dated at Madras this 8th day of May, 1989.

Sd|— D. HARI PARANATHAMAN,
Counsel for Petitioner

Sd|—

Petitioner.

Sd|—

G. VENKATARAMAN
Counsel for Respondent
For Aiyar and Dolia.

Sd|—

Respondent. Deputy Chairman, Madras Dock
Labour Board.

नई दिल्ली, 7 मई, 1989

का.आ. 1705—औद्योगिक विवाद प्रतिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार के तहत सिन्धुसोई सोड प्रोजेक्ट, बगलौर के प्रबंधन से सम्बन्धित निपटारे और उनके कामकाज के बीच, अनुबंध में लिखित औद्योगिक विवाद में औद्योगिक

अधिकरण, मद्रास के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार 23-6-89 को प्राप्त हुआ था।

the Government of India in its order No. L-42012/111/86-D.II(B) dated 24-3-88 of the Ministry of Labour for adjudication of the following issue :

New Delhi, the 7th July, 1989

S.O. 1705.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Madras as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of National Silkworm Seed Project, Bangalore and the workman, which was received by the Central government on the 23-6-89.

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL,
TAMILNADU, MADRAS

Thursday, the 4th day of May, 1989

Industrial Disputes No. 22/38

(In the matter of the dispute for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 between the workman and the Management of Silk Worm Seed Production Centre, Coimbatore and another).

BETWEEN :

Smt. G. Savithri,
C/o Socialist Employees Union,
27/1074, Mettupalayam Road,
Coimbatore-641002.

AND

1. The Senior Research Officer,
Silk Worm Seed Production Centre,
Silk Board, 18, Vivekananda Road,
Ramnagar, Coimbatore-641009.
2. The Director, National Silk Works
Seed Project, Central Silk Board,
II Floor, J. C. Road, Bangalore-560002.

REFERENCE:—Order No. L-42012/111/86-D.II(B), dt. 24-3-88 of the Ministry of Labour, Government of India, New Delhi.

This dispute after restoration coming on this day for final disposal upon perusing the reference and other connected papers on record and upon hearing of Thiru S. Seshadri, Central Government Pleader for the Management and the Workman being absent, this Tribunal passed the following.

AWARD

This dispute between the workman and the Management National Silkworm Seed Project, Bangalore and another arises out of a reference under Section 10(1)(d) of the Industrial Disputes Act 1947 by

“Whether the action of the Management of National Silkworm Seed Project, Bangalore in relation to their Silk-worm Seed Production Centre, Coimbatore in terminating the service of Smt. G. Savithri, workman with effect from 15-9-1984 is legal and justified? If not, to what relief the workman concerned is entitled?”

2. Parties were served with summons.

3. In spite of several chances given to the Petitioner, she was absent and not represented. Hence on 24-11-88 Industrial Dispute was dismissed for default.

4. Petitioner has filed a Misc. Appln. No. 71/89 on 19-12-88 to set aside the ex parte award. On 4-4-89 this tribunal passed an order allowing the application and the Industrial Dispute was restored to file.

5. After restoration, when the dispute was called to-day, Petitioner was absent and no representation was made. No claim statement was filed. Management was represented.

6. Hence Industrial Dispute is dismissed for default.

An award is passed accordingly.
Dated, this 4th day of May, 1989.

K. NATRAJAN, Industrial Tribunal.

[No. L-42012/111/86-D.II(B)]

V. K. SHARMA, Desk Officer

नई दिल्ली, 5 जुलाई, 1989

का मा 1706—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वये में, केन्द्रीय सरकार नून एन्ड सीड ऑफ सिल्क वर्म के प्रजनन के सम्बन्ध में निम्नलिखित विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कोयंबटोर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-6-89 को प्राप्त हुआ था।

New Delhi, the 5th July, 1989

S.O. 1706.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure in the industrial dispute between the employers in relation to the United Bank of India and their workmen which was received by the Central Government on 26-6-1989.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL AT CALCUTTA

Reference No. 102 of 1988

PARTIES :

Employer in relation to the management of
United Bank of India

AND

Their workmen

APPEARANCES :

On behalf of management.—Mr. Anil Kumar,
Law Officer of the Bank.On behalf of workmen.—Mr. Sunil Chowdhury,
Hon. Member with Mr. Deepak Sarangi,
Joint Secretary and Mr. Sujit Rakshit, As-
sistant Treasurer of the Union.

STATE : West Bengal. INDUSTRY : Banking.

AWARD

By Order No. L-12012/479/86-D.II(A) dated 13th August, 1987, the Government of India, Ministry of Labour, referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of United Bank of India in relation to their Habibpur branch in terminating the services of Shri Sripada Halder, empanelled sub-staff, w.e.f. 3-4-1983 and not considering him for further employment while recruiting fresh hands under sec. 25H of the I.D. Act is justified ? If not, to what relief is the concerned workman entitled ?”

2. The case as made out in their written statement by the Union sponsoring the cause of the workman concerned is briefly as follows : Since 1963 a branch-wise panel of the sub-staff was prepared by the employer-United Bank of India (Bank in brief) for recruitment of sub-staff to fill-up the temporary vacancies in the branches, who in turn used to be absorbed in the vacancies of the permanent cadre of the sub-staff. Once the panel so prepared was fully exhausted another panel was prepared. In June, 1981 the employer Bank in negotiation and with the consent of the United Bank of India Employees' Association (Union in brief) formulated a new policy for absorption of some other categories of candidates in the permanent cadre of sub-staff like Canteen Boys, Drivers and Sweepers : which was incorporated in the Bank's circular dated 25-6-1981 wherein 23-6-1981 has been indicated as cutoff date. The Bank ultimately issued the notice under section 9A of the Industrial Disputes Act, 1947 (hereinafter called as the Act) on 18-12-1982, whereby the scheme introduced by the circular dated 25-6-1981 was withdrawn. Mr. Sripada Halder, workman concerned was empanelled

in the year 1980 and he was given appointment by the Manager, Habibpur Branch on 2-7-1981 under the letter dated 1-7-1981 and a formal letter in this respect was issued by the Head Office on 16-7-1982. Mr. Halder was employed last on 2-4-1983 for one day. During the period from July 1981 to April 1983, Mr. Halder worked for 142 days. He was not given any appointment after 2-4-1983 in violation of section 25H of the Act, although empanelled candidates from Employment Exchange who had not work even for a day have been given appointment. The employer Bank while giving re-employment or employment to other candidates has not followed the provisions of section 25H of the Act by not giving re-employment to Mr. Halder, who was retrenched after his service on 2-4-1983. The workman claim for appointment was not accepted by the employer Bank. The Union took-up the cause of the workman concerned and raised the industrial dispute before the Conciliation Officer. The failure report of the Conciliation Officer resulted in the present reference.

3. The case of the employer—Bank as made out in the written statement is briefly as follows : The dispute referred to the Industrial Tribunal for adjudication is not an industrial dispute and accordingly this Tribunal has got no jurisdiction to make any adjudication on the reference. The Bank was under statutory obligation to notify the vacancy in the subordinate cadre in the Employment Exchange and make recruitment from amongst the candidates sponsored by the Employment Exchange or by the Sainik Board. The Government of India gave such direction by their letter dated 30-9-1978 and 23-12-1981 to follow the said procedure in the matter of recruitment. The Bank by its circular dated 25-6-1981 notified the discontinuation of its earlier practice of branch-wise empanelment for recruitment to fill-up the vacancies of sub-staff with effect from 23-6-1981 and also of the policy for absorption of all persons who worked even for a single day from the penal of sub-staff before the cut-off date of 23-6-1980. In furtherance of the said circular abolishing the existing panel a formal notice under section 9A of the Act was 18-12-1980. Accordingly recruitment from other sources excepting the recruitment of the candidates forwarded by the Employment Exchange to the post of Substaff was stopped. The Bank expressed its willingness to consider the candidature of Mr. Halder for further employment provided his name was sponsored by the Employment Exchange against the requisition by the Bank for recruitment in the subordinate cadre. The Habibpur Branch of the Bank had no authority to engage any temporary Sub-staff who had not worked for a day upto 23-6-1981 in view of the Bank's circular dated 25-6-1981. The Head Office of the Bank inadvertently by its letter dated 16-7-1982 confirmed the appointment of Mr. Halder for one day namely 2-7-1981 by Habibpur Branch. Mr. Halder was appointed against the leave vacancy for a specified period on each occasion by way of contract service and Mr. Halder's such service used to get terminated on the expiry of the contractual period. Non-employment of Mr. Halder after 2-4-1983 did not amount to retrenchment as defined in section 2(oo) of the Act and accordingly there was no violation of the provisions of section 25H of the Act by not giving further appointment

to Mr. Halder. Accordingly to the Bank the workman concerned is not entitled to any relief.

4. Both the Union sponsoring cause of the workman and the employer—Bank have adduced evidence, oral and documentary. It appears from the schedule to the reference that the issues for adjudication are whether the action of the employer—Bank in terminating the service of Mr. Halder an empanelled sub-staff with effect from 3-4-1983 has been justified and whether the action of the employer—Bank in not considering him for further employment while recruiting fresh hands under section 25 H of the Act has been justified. WW-2 Sujit Kumar Mukherjee who is the Special Assistant in Maida Branch of the employer—Bank and who is the Assistant Secretary of the Union has stated in his evidence that the Sub-staff of the employer Bank used to be appointed on the basis of the branch panel made in different branches and that the same scheme was in vogue from 1963. His evidence further shows that the permanent vacancy in the particular branch used to be filled-up from such panel according to seniority and that the empanelled persons used to be appointed temporarily before their absorption against the permanent vacancy. MW 1 Premdas Basak who is the Deputy Chief Officer of the employer Bank and who has dealt with the recruitment matters of the Sub-staff, has stated in his evidence that the vacancies in the Sub-staff are notified to the concerned Employment Exchange and the Sainik Board for sending the list of candidates and the sponsored candidates are called for interview. His evidence further shows that the selected candidates are absorbed in the vacancies. According to this witness (MW-1), the above procedure is being followed since 1983 onwards. His evidence further discloses that prior to 1983, the vacancies in the post of Sub-staff used to be notified in the Branches of the Bank for preparation of the panel from the willing candidates and that the Branches concerned used to send the panel with application to the Head Office for approval. His evidence further shows that after receipt of the approval from the Head Office, the Branches used to employ the persons against the temporary vacancies in accordance with the panel, and that the permanent vacancies used to be filled up by the Head Office on the basis of the seniority of the persons holding the temporary posts. His evidence further indicate that while filling-up the permanent vacancies, the Head Office used to determine the seniority of the eligible candidates according to the state-wise seniority but not on the basis of the Branch-wise seniority.

5. The workman concerned Sripada Halder (WW-1) has stated in his evidence that he applied for a post of sub-staff at Habibnour Branch of the employer Bank in 1977 and that after interview he was selected and his name was entered in the panel Ext. W-4. It may be mentioned here that the said panel Ext W-4 containing the name of Sripada Halder as empanelled candidate is of 4-10-1980. The employer Bank's circular dated 25-6-1981 Ext. W-2 containing the scheme for absorption/appointment of temporary subordinate employees gave a direction in paragraph 3 thereof that it had been decided that absorption/appointment of subordinate employees in permanent vacancies

would be made from the temporary subordinate employees from the panel who already worked on temporary appointment upto 23-6-1981. In paragraph 4 of the said circular it has been further clarified by saying that heads of all Branches/Offices have already been advised not to appoint on temporary basis any fresh empanelled candidate who has not already been given offer of temporary appointment in leave vacancy. In spite of such direction in the aforesaid circular, it appears from Ext. W-5 (employer Bank's appointment letter dated 1-7-1981) that the workman concerned Sripada Halder was first appointed against the leave vacancy as a temporary sub-staff on the basis of empanelment as per Ext W-4 and it further appears from employer Bank's Head Office letter dated 16-7-1982 Ext. W-6 that the employer Bank confirmed his appointment for 2-7-1981 on the basis of Bank's Branch letter dated 1-7-1981 Ext W-5. The employer Bank therefore did not follow its own circular Ext. W-2 while giving temporary appointment to Sripada Halder against the leave vacancy because Sripada Halder (concerned workman) did not work even for a single day upto 23-6-1981.

6. Be that as it may, is an undisputed fact that the concerned workman Sripada Halder worked altogether for 142 days during the period from July, 1981 to April, 1983 and that he never worked for 240 days in a calendar year to get any statutory protection to his such service. It is also an undisputed fact that the concerned workman Sripada Halder worked for one day that is on 2-4-1983 and that since thereafter he has not been given any further appointment by the employer Bank. It is an undisputed fact also that the concerned workman worked during the aforesaid period for a specified days in each year the concerned workman worked against the leave vacancy. The Ext W-7 shows for how many days in each year the concerned workman worked as temporary sub-staff against the leave vacancy. It has already been stated that the concerned workman worked for one day in April, 1983 against the leave vacancy and that the said day was 2-4-1983. Such being the position, the question of terminating the temporary service of the concerned workman with the expiry of 2-4-1983 does not arise. It appears from the materials in the record as also from the evidence adduced that the concerned workman used to be appointed for doing the work of Sub-staff for such a number of days as were specified against the leave vacancy. Such temporary service of the concerned workman Sripada Halder was nothing but the contractual service between the employer Bank and the workman concerned. Such contractual service would automatically terminate with the end of the contractual period. In the case of the concerned workman Sripada Halder, his last service for 2-4-1983 ended or got terminated with the expiry of 2-4-1983. Such being the position, the employer Bank's action in terminating the service of the concerned workman with effect from 3-4-83 after the expiry of the day of contractual service on 2-4-1983 has not been unjustified in any way.

7. Next comes the question whether the employer Bank's action in not considering Sripada Halder for

further employment while recruiting fresh hands under section 25H of the Act has been justified. Section 25H of the Act deals with re-employment of retrenched workman. Nowhere either in the written statement or in their submission before the Tribunal the employer has ever taken-up the plea that they have made any re-employment of the retrenched workman. It is their definite case that since 1983 onwards the employer Bank has been making the recruitment for the post of Sub-staff from the candidates sponsored by the Employment Exchange in pursuance to the direction given by the Government in this respect. The Government of India's letter Ext. M-3 with its annexure Ext. M-4 may be referred to in this connection.

8. Before invoking the provisions of section 25H of the Act regarding the re-employment of the retrenched workmen, the concerned workman will have to prove that he is the retrenched workman after the end of his one day's service on 2-4-83. The term "retrenchment" has been defined in section 2(oo) of the Act. The relevant portion of the Clause (oo) to section 25H of the Act is quoted here :

"(oo) "retrenchment" means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include—

(a)

(b)

(bb) termination of the service of the workman as a result of the non-renewal of the contract of the employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or

(c)"

It therefore appears from sub-clause (bb) that termination of the service of the workman as a result of the non-renewal of the contract of the employment between the employer and the workman concerned on its expiry does not come under the term "retrenchment". It has already been shown that the service of the concerned workman Sripada Halder on 2-4-83 got terminated as a result of the non-renewal of the contract of service any further. So the concerned workman is not the retrenched workman. Accordingly the provisions of section 25H of the Act are not attracted when fresh hands were recruited for the post of Sub-staff from the candidates sponsored by the Employment Exchange since 1983 onwards in view of the Government of India's policy as communicated to the Bank concerned.

9. It appears from the materials in the record that the employer Bank expressed its willingness to give employment to the concerned workman if his name is sponsored by the Employment Exchange. There is no material to show that the employer Bank did not give further employment to the concerned workman in spite of his candidature being sponsored by the Employment Exchange.

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10. In view of what has been discussed above and in consideration of all the materials in the record, I find that the employer Bank's action in not considering the concerned workman Sripada Halder for employment while recruiting fresh hands from the candidates sponsored by the Employment Exchange has not been unjustified. It has already been stated that the provisions of section 25-H of the Act have got no scope of its application in the instant case where the workman Sripada Halder could not be shown as retrenched workman. The workman concerned is not entitled to get any relief.

This is my Award.

Dated, Calcutta,

The 15th June, 1989.

SUKUMAR CHAKRAVARTY, Presiding Officer

[No. L-12012/479/86-D.II(A)]

का. आ. 1707—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बंगलौर के पंचपट को प्रकाशित करने है, जो केन्द्रीय सरकार को 22-6-89 को प्राप्त हुआ था।

S.O. 1707.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the industrial dispute between the employers in relation to the Central Bank of India and their workmen, which was received by the Central Government on the 27-6-1989.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE.

Dated: 31st day of May, 1989.

Central Reference No. 30/88

I PARTY

The General Secy.,
Central Bank of India,
Employees' Union,
C/o Central Bank of India,
Divisional Office, No. 24,
Crescent Road, High Grounds,
Bangalore-560001.

Vs.

II PARTY

The Regional Manager,
Central Bank of India,
Regional Office,
No. 24, Crescent Road,
High Grounds,
Bangalore-560001

APPEARANCES :

For the I party Shri A. V. Srinivas, Advocate.

For the II party Shri P. S. Sawkar, Advocate.

AWARD

By exercising its powers under section 10 (1)(d) of the I.D. Act, the Government of India, Ministry of Labour has made the present reference on the following point of dispute by its order No. L-12012/718/87-D.II(A) dated 15th July, 1988.

Point of Reference

“Whether the management of Central Bank of India is justified in discriminating the casual/temporary sub-staff employed in various branches of the Bank in Karnataka in the matter regarding payment of wages for weekly holidays and intervening holiday? If not to what relief the said workmen are entitled?”

1. The first party union has filed a claim statement and its contentions in brief are as follows.

The second party is a nationalised bank. It is a State within the meaning of article 12 of the constitution of India. The first party is a trade union of the employees of the second party. The second party is engaging temporary sub-staff to meet the exigencies of sudden vacancies. They are not issued with orders of appointment. Their nature of work is the same as of the permanent employees. The second party is not paying proper wages to them. In the banks controlled by the Central Government, wages are paid even for intervening holidays and weekly holidays. The second party, however pays only for the days on which the workman actually works. Even when a workman is engaged for more than a month continuously, they do not pay wages for the weekly and other holidays. The second party has indulged in unfair labour practice. The action of the management is discriminatory, in not paying wages of weekly holidays and intervening holidays to the temporary sub-staff and it brings about dissatisfaction. The second party is appointing personnel for the clerical cadre also. For them it pays for the weekly holiday. The temporary sub-staff appointed in the Regional or Divisional office of the second party are paid wages for weekly and intervening holidays, whereas the same is not paid to the temporary sub-staff of the branches. The employees shown in the annexure have been subsequently absorbed as the members of the sub-staff. The second party is bound by the provisions of Equal Remuneration Act. By a letter dated 20-5-87 all these facts have been brought to the notice of the second party, but the demand was not acceded. Hence an industrial dispute was raised. It is prayed that an award may be passed that second party is not justified in not paying the wages for intervening and weekly holidays to the subordinate staff of their branches and direct them to pay the same.

2. The annexure to the claim statement is as follows :—

Name of the employee	Sundays and intervening Public holidays not paid
Sri M.S. Manjunatha	27-1-1983 to 19-11-1984
Sri P. Murulidharan	27-11-1980 to 31-12-1983
Sri A.G. Allagi	Jan. 1981 to 14-6-1988
Sri B.S. Parthasarayana	July 1982 to 14-6-1988
Sri Parushuram Bhat	from the date of opening the branch to 14-6-1988
Sri A.G. Kulkarni	10-8-1982 to 14-6-1988
Sri S. Nagesha	17-11-1981 to 29-6-1988
Sri Babu N. Dange	1-5-1982 to 14-6-1988
Sr P.G. Rajendra Prasad	14-2-1983 to 19-12-1983

3. The second party has filed its counter statement and its contents in brief are as follows :

The Central Government has not applied its mind, to find out whether there was any industrial dispute, before making the reference. The first party union had made a representation to the Hon'ble Chief Minister of Karnataka for amendment of certain provisions of Karnataka Act No. 33 of 1972 namely Karnataka Shop and Establishments Act and had sought or applying the provisions to the Nationalised Banks also. The union contended that notification No. SWN 69 LWA 76 dated 16/19th June, 1978 had exempted the Nationalised Banks from the provisions of sections 15, 16, 17 and 18. Thus, the casual/daily wagers are not entitled to wages of weekly holidays. There was no Industrial Dispute in existence. The second party pointed out that the provisions of the said Act were not applicable and therefore there was no obligation for the bank to pay wages of sundays and intervening holidays. It was also pointed out that the first party had made a representation to the Government and that there was no demand. It was pointed out that the Government is not empowered to refer the question whether the union has a right to seek the amendment of the said Act. The point of dispute referred by the Government is contrary to representation made by them. None of the members of the temporary sub-staff shown in their annexure was a member of the first party union. The first party union is not competent to raise any demand on their behalf. The second party has stopped engaging casual/daily wagers at the regional and branch offices. The said work is looked after by the regular staff itself. Out of the 9 persons shown in the annexure, those at Sl. Nos. 2 to 9 have been already absorbed. They have not raised any dispute regarding their backwages at the time of their absorption. The employees at Sl. Nos. 3 to 9 have given written declaration that they have no claim of any kind. There cannot be any award sine the second party has discontinued engaging persons on daily wagers. It has several branches in Karnataka. The Regional office is at Crescent Road, Bangalore. The clerical and substaff known as award staff are governed by the provisions of bipartite settlements. Wherever the members of the sub-staff used to go on leave, casual or daily wagers were engaged on day to day basis. They were paid only for the days that they used to work. They are not regular employees. They are not governed by the bip-

partite settlements. Their names are not shown in the muster rolls. They are paid on the basis of vouchers. The daily wages were calculated with reference to the basic plus D.A. plus H.R.A. paid to the regular sub-staff. The provisions of equal remuneration Act are not violated. The work entrusted to the daily wagers is not the same as entrusted to the regular sub-staff. They are not entitled to the payment of wages for national and festival holidays or sundays. It is denied that the second party has indulged in unfair labour practice. The contention that they are not paid wages as per the norms of the banking industry is not tenable. The clerks have different duties. The contention of discrimination is not tenable. Since the persons shown in the annexure have been absorbed and since they have given up their claims for backwages, question of giving relief does not arise. The question whether the provisions of Equal Remuneration Act are attracted is beyond the scope of the present reference. The reference may be rejected.

4. The second party management contended that the Court may frame certain issues. On 11-1-1989 the following three issues have been framed.

- (1) Whether there is the industrial dispute in existence as disputed by the II party in para 3 of the Counter Statement?
- (2) Whether the dispute does not survive as regards Sl. Nos. 3 to 9 as contended in para 7 of the counter statement?
- (3) Whether the first party is competent to raise the dispute and whether the reference is maintainable?

5. The second party has examined one witness and has got marked Exs. M-1 to M-3.

6. The first party has examined one witness and has got marked Exs. W-1 to W-3.

7. The parties have been heard.

8. My findings on the issues and the point of reference are as follows :—

Issue No. 1.—The II party has not proved that there was no industrial dispute.

Issue No. 2.—The dispute survives.

Issue No. 3.—Yes.

POINT OF REFERENCE

The I party is entitled to the relief shown below.

REASONS

9. Issue No. 1.—In para No. 3 of the counter statement the II party has contended that the I party union had made a representation to the Hon'ble Chief Minister of Karnataka seeking amendment so as to make sections 12 (3) and 12 (5) of the Karnataka Shops and Establishments Act applicable to the Nationalised Banks and that, further the I party had contended that the exemption given to the Na-

tionalised Banks may be withdrawn. Para 3 further shows that the representation was therefore of the nature of an appeal and that there was no demand on the management seeking to raise an industrial dispute and hence there was no industrial dispute. The evidence of WW-1 Ramachandramurthy, the General Secretary of the I party union shows that regarding the claims of the daily wages he had sent a letter dated 16-4-86, Ex. W-1 to the Zonal Manager and that the Bank had sent a reply as per Ex. W-2. He further states that earlier he had addressed a letter to the Regional Manager on 27-2-85 as per Ex. W-3. His evidence further shows that the Hon'ble Chief Minister of Karnataka had then referred the matter to the Regional Labour Commissioner and that the latter had initiated the conciliation proceedings. There is no dispute on the point that the management had participated in the conciliation proceedings and since the said proceedings failed, the Government has made the present reference. For the management, MW-1, Sathyanarayana Deputy Chief Officer has been examined. In para 18 of his evidence he states that he does not know whether the I party had written any letter to the bank before approaching the RLC about the disparity between the daily wagers and regular employees. In the examination-in-chief also, MW-1 does not make any reference to Exs. W-1, W-2 and W-3. The evidence of WW-1 Ramachandra Murthy has not been challenged in the cross-examination with reference to Exs. W-1, W-2 and W-3. In the context that there is no reference to Ex. W-1, W-2 and W-3 in the examination-in-chief of MW-1 Sathyanarayana or about Exs. W-1, W-2, and W-3 themselves in the cross-examination of WW-1 Ramachandra Murthy it follows that these documents have stood un-assailable. Ex. W-3 dated 27-2-85 discloses that the General Secretary of the I party union had reminded the Regional Manager of the II party that during the Joint discussions held on 7-7-1984, it was agreed that the bank should pay wages for the intervening holidays and sundays and that inspite of the said agreement no action had been taken and therefore the management should issue necessary instructions to the branches. From Ex. W-3, it is thus very much patent that the union had made the demand on the bank that they should pay the wages for the sundays and intervening holidays. Ex. W-1 dated 16-4-1986 indicates that the General Secretary of the I party had brought to the notice of the II party that the Regional Officer Hubli by his letter dated 6-3-86 had informed them that the Zonal Officer of the II party, Hyderabad had informed the Regional office that, casual/temporary employees cannot be paid wages for Sundays and intervening holidays. The I party has reiterated its demand in Ex. W-1 that the request made by them was reasonable and that the management should consider about it failing which the union would be compelled to seek remedy before the Labour authorities or the court. The contentions raised and repeated in Ex. W-1 further find support from the Bank's letter Ex. W-2 dated 6-5-85. Ex. W-2, is the letter by the Regional manager to the Secretary of the I party. The Regional Manager has extracted portion of the letter received by him, from the Zonal office, and has expressed that the bank need not pay any wages for sunday and intervening holidays to the daily wagers. The extracted portion is as follows.

"There are no rules in the Bipartite settlements in vogue for payment of wages for the weekly holidays to the temporary workmen. The provisions of the Karnataka Shops and Commercial Establishments Act, 1961 are not applicable to the office of a banking company as per the Act 33 of 1982 with effect from 4-12-1982".

MW-1 Sathyanarayana makes a reference to Exs M-1, M-2 and M-3 in his evidence. From Ex. M-2 it is evident that the I party had made representation to the Hon'ble Chief Minister of Karnataka stating that the exemption granted to the nationalised banks may be withdrawn, and that the banks may be made to pay the wages for the sundays and intervening holidays to the daily wagers. From the record it is evident that Ex. M-2 had been referred to the R.L.C. Bangalore and into the R.L.C. had sent a copy of Ex. M-2 to the II party and had fixed a meeting on 12-1-1987. From Ex. M-1 it is obvious that both the parties had some meetings before the R.L.C. Ex. M-3 indicates that the union contended before the R.L.C. that the management was not paying wages for sundays and in evening holidays, even if a casual workman works for six days continuously in a week. The management contended before the R.L.C. that Karnataka Act No. 33/82 was not applicable to the banks and they need not pay the same. It has been specifically stated in Ex. M-3 by the R.L.C. that in other nationalised banks such wages are being paid and it was also pointed out that in some of the branches of the II party itself, including the Regional office, casual/temporary substaff are paid wages for the sundays and intervening holidays. As against the said contention, the II party repeated its point that there was no obligation on the part of the bank to pay any such wages. The R.L.C. has then concluded that conciliation was not possible and that the Government may consider the matter. In my view it would be futile to contend that the union had not made any demand on the management for payment of wages of sundays and intervening holidays or that it was a mere representation to the Hon'ble Chief Minister of Karnataka. On facts, it is held that the I party has shown that the contentions raised by the II party in para 3 of the counter statement are not sustainable.

10. Issue No. 2 :—In para 7 of the counter statement it has been contended by the II party that since recently the second party has stopped engaging casual workers on daily wages and that out of the nine persons shown in the annexure to the claim statement 8 persons at Sl. Nos. 2 to 9 have been already absorbed, that they have no dispute in regard to backwages, and that they have given a letter that they have no claim against the II party and hence there is no surviving dispute. The II party has not examined any workman out of eight workmen shown in the annexure to the claim statement in order to prove that at the time of absorption, they have already given up their claim, if any, for wages of the sundays and intervening holidays. The letter said to have been given by them has not been produced by the II party Bank. The mere fact that except M. S. Manjunath all the other 8 persons have been absorbed in the regular service of the bank does not by itself prove

that they have given up their claim for backwages of such sundays and intervening holidays. A claim for wages is not the one falling under section 2A of the I.D. Act and such a claim is maintainable if it is espoused by a union as an industrial dispute under section 2(k) of the I.D. Act. Hence only the I party union can say whether the workman or any one of them have any such claim or not. In para 6 of his evidence WW-1 Ramachandra Murthy states that he does not know whether 8 persons shown in the annexure except Manjunath have executed any agreement to the second party that they have no claim. The said statement does not prove that there is any agreement between the said 8 persons and the II party whereby the said 8 persons have given of their claim. The point of dispute referred to this Tribunal is not confined to only 9 persons shown in the annexure to the claim statement. Even if it is supposed that there is some kind of admission in para 16 of the evidence of WW-1, it is of no avail to the II party.

11. The learned counsel for the II party argued that the I party has not pleaded nor produced evidence to show as to who are all the workmen, in regard to whom there is a claim for the wages of sundays and intervening holidays and that no vague award can be passed. If the management had any grievance regarding the point of reference, they had some other forum and it cannot be said that the point of reference in the present case is too vague so that no relief can be granted. In my view in the absence of the available evidence that the said 8 persons of annexure to the claim statement have given up their claim and so also in the absence of the letter showing that they have given up their such claim, the II party cannot be permitted to say that here is no surviving claim.

12. Issue No. 3 :—In para 6 of the counter statement the II party contends that none of the employees of the substaff including those shown in the annexure to the claim statement was a member of the I party union and therefore the I party union is not competent to raise the dispute. In the first place it requires to be examined whether the reference is in regard to an industrial dispute. Then, it requires to be seen whether there is proper espousal. The definition of industrial dispute in section 2(k) of the Act shows that any dispute between the employer and the workman connected with the employment or the terms of the employment, or the conditions of labour is an industrial dispute. The commentary running under section 2(k) of the law of Industrial Disputes by O.P. Malhotra from pages 143 to 157 (IV Addition) make it amply clear that it is not imperative that the workmen who are beneficiaries of the claim need be the members of the union espousing their cause. In my opinion nearly because, the casual workmen working on daily wages cannot and were not the members of the I party union at the relevant time, it does not follow that the I party is not competent to raise and maintain the present dispute.

13. Point of Reference :—In para 10 of the counter statement the II party has given replies with reference to various paragraphs of the claim statement.

In regard to reply to statements of para No. 7 of the claim statement, the II party contends on page 6 of the counter statement as follows : "It is true that all the persons mentioned in the annexure were not given wages for intervening holidays....etc". From the failure report of the R.L.C. at Ex. M-3 it is as clear as day light that even though the I party had contended that in their own Regional office, the casual workers have been paid wages of sundays and intervening holiday, such casual workers of other branches have not been paid, the management remained contended by simply pleading that there was no obligation on them to pay the same under Karnataka Act No. 33 of 1982.

14. The learned counsel for the I party contended that under the various labour legislations, the II party had an obligation to pay equal wages for equal work and they are not justified in contending that the banks are exempted under the aforesaid act.

15. The learned counsel for the II party brought to my notice the provisions of section 3 of the said Act. Section 3(1)(f) shows that offices of the banking company are exempted from the provisions of the said act.

16. It is not necessary to examine the claim of the I party with reference to Karnatak Act No. 33 of 1982 or any other Central or State Act. It is manifest from the record that the I party has been time and again insisting upon the bank to pay wages for sundays and intervening holidays to all the daily wagers working in all the branches and other offices of the II party. The II party bank has placed no convincing material before me to show that the contention of the I party that casual workmen working in their own Regional office have been paid wages for the sundays and other holidays is not correct. It, thus follows as an implied admission of the II party bank that some of the casual workmen who have worked in the Regional office have been paid wages for the sundays and intervening holidays. The burden lied squarely on the II party to show the justification for discriminating against the casual workmen of other branches. The II party has absolutely no explanation as to why it paid such wages to the casual workmen who worked in the Regional office, whereas why it did not pay to the casual workmen of other offices and branches. The II party, unless there is a justifiable reason, cannot afford to discriminate one set of workmen against another set, who are equally placed. I am therefore of the view that the II party was not justified in discriminating against some of their workmen, who had worked on daily wages and that they are bound to pay them such wages.

17. It is a well recognised principle of law that the award should be specific, definite, and executable in terms of money or should state other specific relief. The I party has not indicated any cut-off date from which the relief of such backwages should be awarded. In my opinion it would be quite just and reasonable to order that the II party shall pay backwages of such weekly and intervening holidays of the period

of three years next preceding the date of the order of reference, namely 15-7-1988.

18. In the result, an award is passed to the effect that the Central Bank of India is not justified in discriminating the casual/temporary substaff employed in their various branches in Karnatak in the matter of paying them the wages for weekly holidays and intervening holidays. The II party Bank shall pay the wages of such weekly holidays and intervening holidays which fall within the period of three years next before the date of reference, namely 15-7-1988 and that after due calculation of the same, the said wages shall be paid to all the concerned workmen.

(Dictated to the Stenographer, taken down by her, got typed and corrected by me).

B. N. LALGE, Presiding Officer

[No. L-12012/718/87-D.II(A)]

का.प्र. 1708--औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वयेण में, केन्द्रीय सरकार केनरा बैंक के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मकों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण केन्द्रीय के पंचपट में प्रकाशित करती है, जो केन्द्रीय सरकार को 26-6-89 को प्राप्त हुआ था।

S.O. 1708.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the industrial dispute between the employers in relation to the Canara Bank and their workmen, which was received by the Central Government on the 26-6-1989.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT BANGALORE

Dated : 20th day of : June 1989

Central Reference No 66/87

Old Central Reference No. 31/86

I PARTY

Shri A. S. Suresh & Others
The President
Canara Bank Staff Union
II Floor, No. 229,
Cebbonupet Main Road,
Bangalore-560002.

Vs.

II PARTY

The Chairman & Managing Director,
Canara Bank,
Head Office, J. C. Road,
Bangalore-560002.

APPEARANCES :

For the I Party—Shri V. Gopala Gowda.

Advocate

For the II Party—Shri P. S. Sawkar,—Advocate.

AWARD

By exercising its powers under section 10 (1) (d) of the Industrial Disputes Act, the Government of India, Ministry of Labour has made the present reference on the following point of dispute by its order No. L-12011/17/85-D.II(A) dated 26-11-86:

2. By a General Order No. L-11025/A/87-D.IV(B) dated 13-2-1987, it has been transferred to this Tribunal and it is at Sl. No. 68.

Point of Reference

“Whether the management of Canara Bank is justified in not regularising the services of S/Sh. A. S. Suresh, N. A. Srikantiah, R. S. Palakshaiiah, O. Suresh Kumar Gopal B.H., H. S. Gopal, N. Venkatesh, Chikkaswamaiah and R. Mahadeva who have been working in the Printing Department of Head Office of Canara Bank, Bangalore for the last one to three years? If not, to what relief are the workmen entitled?”

3. By an order dated 28-3-1988 this Tribunal held that issue Nos. 2 and 4 go to the root of the matter and that they shall be decided as preliminary issues.

4. Issue Nos. 2 and 4 reads as follows.

Issue No. 2.—Whether the dispute does not survive any longer as contended by the II party in para (2) (b) to (d) of the counter statement?

Issue No. 4.—Whether the I party workmen prove that the settlement dated 22-12-86 is illegal and not binding on the grounds pleaded in paragraphs 12 to 17 of the claim statement.

5. In para 2 (b) to 2 (d) of the counter statement, the contentions raised by the II party, in brief are as follows :—

(1) The I party union has no representative capacity and it is not competent to espouse the cause of the I party workman. None of the employees of the II party is a member of the said union.

(2) Subsequent to the reference, the concerned workman have entered into a settlement dated 22-12-86 under section 2 (p) read with section 12(3) of the Industrial Disputes Act, in the presence of the Regional Labour Commissioner Bangalore. As per the settlement they have agreed that their names may be included in the daily wages panel maintained at the head office, and that they should be absorbed as per seniority. The II party has agreed to absorb them likewise. They have been given respective seniority numbers. The dispute under reference has been fully and finally settled. It is binding on them. The II party has already fulfilled its obligations under the settlement.

(3) The concerned workmen have filed writ petition Nos. 13742 to 13750/86 in the Hon'ble High Court of Karnataka for the same reliefs and they have been dismissed.

(4) Certain daily wagers had filed writ petition No. 281/80 before the Hon'ble Supreme Court of India and an order dated 8-9-86 has been made therein, that casual workmen who have put in 240 days of work should be retained and should be considered for absorption.

(6) In para 12 of the claim statement the I party workmen contended that petition and affidavit dated 7-2-1987 filed before the Regional Labour Commissioner, Bangalore may be gone through as a part of the claim statement. In para 13 it is contended that the alleged settlement dated 22-12-86 was entered into on the condition and understanding that each workman will be given work for 26 days in a month and the same is recorded in the order of the Regional Labour Commissioner. In para 14 it is stated that the concerned workmen were under bonafide belief that the term and condition was included in the settlement when they signed it. In para 15 it is alleged that subsequent to the settlement, these workmen were given work for 4 days and were refused employment after 1-1-1987. In para 16 it is contended that the workmen later came to know that the II party has not included the condition of giving them work for 26 days in a month and therefore it is a case of fraud played on the workmen and the Regional Labour Commissioner. It is further contended that the II party has omitted unfair labour practices since their duties were taken by making false assurances. It is then alleged that the Labour Commissioner had inspired confidence in them, that they will be given work for 26 days in a month, before they put their signatures for the settlement. In para 17 it is alleged that the settlement is not valid because there was no meeting of minds and it is not binding on them. In para 18 it is alleged that there are vacancies in the II party management and by way of victimisation they are not being regularised. In para 18 it is stated that for the reason that they may seek proper remedy before this Tribunal, the Hon'ble High Court of Karnataka dismissed the writ petitions.

(7) On record and evidence, receiving evidence by affidavit, marking the relevant documents, hearing the parties, considered findings have been recorded on issue Nos. 2 and 4 on 31-5-89. Since the said order has been pronounced in open Court, it is not necessary to reproduce the findings.

(8) By the said order dated 31-5-89 it has been held on issue No. 4 that the individual settlements dated 22-12-86 marked as Exs.

W-3 to W-11 are legal, and binding on the parties. On issue No. 2 it has been held that the dispute does not survive any longer, in view of the said settlements.

- (9) After reording the said findings, parties had been called upon to advance further arguments, if any as to why an award should not be passed accordingly.
- (10) No more points have been made out by either party in their further arguments.
- (11) In the result, an award is passed in pursuance to the findings on issue Nos. 2 and 4 that the dispute referred to this Tribunal as shown in the order of reference does not survive and that the workmen are not entitled to any relief.

(Dictated to the Stenographer, taken down by her, got typed and corrected by me).

B. N. LALGE, Presiding Officer
[No. L-12011/97/85-D II(A)]

का.प्र. 1709—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यनियन बैंक ऑफ इंडिया के प्रबंधन एवं संबंध नियोजकों और उनके कर्मचारों के बीच अन्तर्गत में निम्नलिखित औद्योगिक विवाद में औद्योगिक अधिकरण सर्वोच्च के फैसले का प्रकाशित करती है, जो केन्द्रीय सरकार को 28-6-89 को प्राप्त हुआ था।

S.O. 1709.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Quilon as shown in the Annexure in the industrial dispute between the employers in relation to the Union Bank of India and their workmen, which was received by the Central Government on the 28-6-1989.

ANNEXURE

IN THE COURT OF THE INDUSTRIAL
TRIBUNAL, QUILON

(Dated, this the 16th day of June, 1989)

IN
Industrial Dispute No. 10/89

BETWEEN :

The Manager (P), Union Bank of India, Zonal Office,
South Zone-I, III Floor, 129 Greem Road,
Madras-600006.

(By Sri R. Somanathan, Advocate, Trivandrum)

AND

The General Secretary, Union Bank of India Employees' Federation C/o Union Bank of India,
Sastri Road, Kottayam-686001.

AWARD

This industrial dispute between the above parties has been referred for adjudication to this Tribunal by the Government of India as per order No. L-12011/93/88-DII(A), dated 10-3-1989.

SCHEDULE

Whether the denial of transfer to Sri C. P. Radhakrishnan from Attipara to Trivandrum tantamounts to violation of the terms of the settlement signed between the management of Union of Bank of India and their representative union which came into effect from 5-4-1988? If no, to what relief is the workman entitled?

2. Notices were issued to both parties. The management entered appearance through counsel. But the union did not though notice was duly served on it general secretary. Hence the union was declared ex-parte.

3. As the union has not come forward and established its claim regarding the denial of transfer to Sri C. P. Radhakrishnan from Attipara to Trivandrum, I have no alternative but to find that the union is not entitled to any relief.

An award is passed accordingly.

C. N. SASIDHARAN, Industrial Tribunal
[No. L-12011/93/88-D.II(A)]
N. K. VERMA, Desk Officer

